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WHO: The Office of the Federal Register.

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4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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WHEN: April 23; at 9:00 a.m.
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St. Louis, MO
RESERVATIONS: Call the Federal Information Center
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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AE90

Federal Employees Health Benefits Program: Limitation on Inpatient Hospital Charges and FEHB Program Payments

AGENCY: Office of Personnel Management.

ACTION: Interim regulation with request for comments.

SUMMARY: The Officer of Personnel Management (OPM) is issuing an interim regulation that implements section 7002(f) of the Omnibus Budget Reconciliation Act of 1990 (5 U.S.C. 8904(b)). The law sets a limit on the charges and Federal Employees Health Benefits (FEHB) Program benefit payments for certain inpatient hospital services received by a retired enrolled individual. This regulation defines a retired enrolled individual and sets forth the circumstances under which the limit on charges and FEHB Program benefit payments takes effect.

DATES: This interim regulation is effective January 1, 1992. Comments must be received on or before May 26, 1992.

ADDRESSES: Written comments may be sent to Andrea S. Minniear, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivered to OPM, room 4351, 1900 E Street, NW., Wasington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606-0191.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1990 (OBRA of 1990), Public Law 101-508, was enacted on November 5, 1990. Section 7002(f) of OBRA of 1990 amended the FEHB law to limit the charges and FEHB Program benefit payments for certain inpatient hospital services received by retired enrolled individuals.

The purpose of this interim regulation is to implement section 7002(f) of Public Law 101-508. The interim regulation defines a retired enrolled individual and specifies the inpatient hospital services covered by the limitation on charges and benefit payments.

The interim regulation explains how FEHB fee-for-service plans will determine benefit payments for inpatient hospital services covered by the limitation. The limit is the amount calculated by the FEHB plan as equivalent to the Medicare Part A payment under the diagnostic related group (DRG) based prospective payment system (PPS). The limit set by the law is not what the plan must pay but the most that the plan can pay. If a plan would pay a lower amount than the limit by following the payment procedure used for all its other FEHB enrollees, the plan also will pay the lower amount for services covered by the limitation.

The interim regulation explains that the FEHB plans will determine the amount which is equivalent to the Medicare Part A payment under the DRG-based PPS. FEHB plans will receive specific operating guidelines from OPM.

The interim regulation makes an exception to the policy regarding the continuation of benefits when an individual is confined in a hospital or other institution for care or treatment on the date his or her enrollment is changed from one plan to another, or from one option of a plan to another option of that plan. If the services provided during a change in enrollment from one plan to another, or from one option of a plan to another option of that plan, are covered by the limit on charges and benefit payments specified in this regulation, the individual is entitled to a continuation of the benefits of the prior plan or option until the end of the confinement. This exception accommodates the law by ensuring that the charge and benefit payment for the entire hospital confinement are determined in compliance with the limitation on charges and benefit payments specified in this regulation.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking and making this regulation effective in less than 30 days. The notice is being waived because the limitation enacted by Public Law 101-508 addressed in this regulation was effective with respect to the contract year beginning on January 1, 1992.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal annuitants, and former spouses.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance, Retirement.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1; subpart L also issued under sec. 599C of Public Law 101-513, 104 Stat. 2064.

2. Section 890.401 is amended by adding paragraph (b)(3) to read as follows:

§ 890.401 Temporary extension of coverage and conversion.

* * * * *

(b) * * *

(3) *Exception.* The limit on the number of confinement days allowed to be covered under the continuation of benefits specified by paragraph (b)(2) of this subpart does not apply to confinements in a hospital or other institution when the charges and benefit payments for the services provided are covered by the limit specified in subpart

I of this part. In these cases, the benefits continue until the end of the confinement.

* * * * *

3. In part 890, a new subpart I, consisting of §§ 890.901 through 890.907, is added to read as follows:

Subpart I—Limit on Inpatient Hospital Charges and FEHB Benefit Payments

Sec.

Subpart I—Limit on Inpatient Hospital Charges and FEHB Benefit Payments

§ 890.901 Purpose.

This subpart identifies the individuals whose charges and FEHB benefit payments for inpatient hospital services may be limited and sets forth the circumstances of the limit.

§ 890.902 Definition.

For purposes of this subpart, *Retired enrolled individual* means an individual who:

(a)(1) Is covered by a Federal Employees Health Benefits plan (including individuals covered under 5 U.S.C. 8905a) described by 5 U.S.C. 8903(1), (2) and (3), or 5 U.S.C. 8903a and is:

(i) An annuitant as defined in 5 U.S.C. 8901(3); or

(ii) A former spouse as defined in 5 U.S.C. 8901(10) or enrolled for continued coverage under 5 U.S.C. 8905a(f); or

(2) Is a family member covered by the family enrollment of an annuitant or former spouse as defined in 5 U.S.C. 8901, or a former spouse enrolled for continued coverage under 5 U.S.C. 8905a(f); and

(b) Is not employed in a position which confers FEHB coverage; and

(c) Is age 65 or older or becomes age 65 while receiving inpatient hospital services; and

(d) Is not covered by Medicare part A.

§ 890.903 Covered hospital services.

The limitation on the charges and FEHB benefit payments for inpatient hospital services apply to inpatient hospital services which are:

(a) Covered under both Medicare part A and the retired enrolled individual's FEHB plan; and

(b) Provided by hospital providers who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1814(a) and 1866 of the Social Security Act, and receive Medicare part A payments in accordance with the diagnostic related group (DRG) based prospective payment system (PPS).

§ 890.904 Determination of FEHB benefit payment.

The FEHB benefit payment under this subpart is the lowest of the following:

(a) The amount calculated by the FEHB plan, using guidelines specified by OPM, as equivalent to the Medicare part A payment under the DRG-based PPS (that is, the amount payable before the Medicare deductible, coinsurance and lifetime limits are applied).

(b) The amount payable by the retired enrolled individual's FEHB plan under its benefit structure (that is, the amount payable before the FEHB plan's deductible, coinsurance, lifetime limits and other maximums are applied).

(c) The actual billed charges.

§ 890.905 Effective dates.

The limitation specified in this subpart applies to inpatient hospital admissions commencing on or after January 1, 1992.

§ 890.906 End-of-year settlements.

Neither OPM, nor the FEHB plans, will perform end-of-year settlements with, or make retroactive adjustments as a result of retroactive changes in the Medicare payment calculation information to, hospital providers who have received FEHB benefit payments under this subpart.

§ 890.907 Provider information.

The hospital provider information used to calculate the amount equivalent to the Medicare part A payment will be updated on an annual basis.

[FR Doc. 92-7088 Filed 3-26-92; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 890

RIN 3206-AE44

Federal Employees Health Benefits Program: Continuation of Coverage During a Period of Military Furlough in Support of Operation Desert Shield and/or Desert Storm

AGENCY: Office of Personnel Management (OPM).

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations that waive the employee share of the health benefits premium for employees whose coverage under the Federal Employees Health Benefits (FEHB) Program continues while they are on leave without pay because of military service in support of Operation Desert Shield and/or Desert Storm. These regulations finalize interim regulations that were issued to make sure that employees who performed active military duty during this period would be able to leave their employment termporarily with the knowledge that their affairs were in order and their rights protected.

EFFECTIVE DATE: April 27, 1992.

SUPPLEMENTARY INFORMATION: On September 25, 1990, OPM issued interim regulations (55 FR 39131) that waived the employee share of the health benefits premium for employees who continue FEHB coverage while they are on military furlough (leave without pay) because of military service in support of Operation Desert Shield.

On August 22, 1990, the President signed Executive Order 12727, by which he ordered certain Armed Forces reservists to active military duty. Under OPM's regulations in effect at that time, Federal employees who entered on a leave-without-pay (LWOP) status could continue their FEHB coverage if they paid their share of the FEHB premium. By continuing FEHB coverage while in leave-without-pay status, employees can ensure that their families are able to maintain established relationships with health care providers for up to 12 months of LWOP.

The call to active military service initiated a difficult period in the lives of affected employees and their families. In order to make sure that employees who performed active military duty during this period would be able to leave their employment termporarily with the knowledge that their affairs were in order and their rights protected, OPM issued regulations waiving the employee's share of the FEHB premiums for employees who continued their FEHB coverage while in a LWOP status because they were performing active military service in support of Operation Desert Shield.

We received two written comments from Federal agencies and several telephone responses from agency personnel directors. We also received one written comment from an organization of health professionals, one from an employee-related organization, and five from health insurance carriers and organizations representing health insurance carriers.

One commenter stated that an employee who is in LWOP status may continue coverage only if he or she pays both the Government and employee's

share of the premiums and asked a number of questions based on this premise. However, this is a misconception—the employing agency pays the Government's share under the interim regulations, just as it does when employees are on LWOP under more normal circumstances. Therefore, the commenter's questions based on this premise are not relevant.

Five commenters were concerned about the effect of waiving the employee share of the premium on the health insurance carriers since they would not be receiving the premiums they expected for these enrollees under their contracts with OPM. They were also concerned about the effect on future contract negotiations.

OPM does not anticipate any adverse effect on carriers to result from the interim regulations. The overall effect of waiving the employee's share of premiums for reservists is that there are potential cost reductions to balance out the reduction in revenue. Since the military provides health care for individuals on active military duty, FEHB enrollments affected by the regulations actually cover one less person than before the LWOP began. For self-only enrollments, no one actually receives benefits in most cases. At the same time, the plans continue to receive the Government share of the premium (approximately 70% of the total amount).

The difference in income per covered individual, if any, is not a problem for experience-rated plans becuase such differences are worked out in the normal rate-setting process. However, HMO's that pay capitation must make capitation payments even though the individual will not be seeking services while he or she is on active military duty. Therefore, we are looking at each HMO on an individual basis during the reconciliation process so that we can make appropriate adjustments.

During the reconciliation process, OPM is allowing a net adjustment for employees in LWOP status because of military service in support of Operations Desert Shield and/or Desert Storm, whereby plans may show losses or gains that the plan incurred due to the Operation Desert Shield/Storm absentees. To facilitate this process, OPM has informed affected plans of the number of their enrollees who were in this category in 1990 and, in early 1992, will provide 1991 information. Therefore, no FEHB plan will suffer a loss as a result of these regulations.

Two commenters said that under OPM's contracts with the carriers, OPM is obligated to obtain advance approval of FEHB carriers of any regulatory change that increases the liability of the carriers. However, the contract clause to which the commenter was referring does not apply in this case since there will be no liability, as explained in the preceding paragraphs.

One commenter cited the experience of an employee who was called up for two periods of active military service, each of which was limited to 30 days or less; therefore, neither period qualified for a waiver of the employee share of premiums under these regulations. The commenter suggested that we remove the requirement that the military service not be limited to 30 days or less. Periods of service that are limited to 30 days or less are usually intended for training purposes and are usually served while the individual is in a military leave status (which is paid leave). In addition, for the regulation waiving the employee premiums during LWOP to have any effect, the period of military service would have to result in at least one pay period during which there was insufficient pay to make the health insurance withholdings. Therefore, it is quite unusual for employees to be called into military service under circumstances that would meet the requirements of this regulation, except that the military service is limited to 30 days or less, and for the employees to actually experience at least one pay period without pay as a result. Isolated occurrences of this kind are not properly addresed by removing regulatory limitations that are appropriate to the vast majority of circumstances. While an employee with a brief period of LWOP might be inconvenienced by having to pay the employee share of the FEHB premium, the requirement would not constitute a hardship such as that experienced by employees who remain in military service for many months. It is this latter employee who needs the relief that this regulation was intended to bring.

Several callers asked whether the Government share of the FEHB premium was waived. The interim regulation amended the provisions related to the employee share of the premium. No changes were made to the provision related to the Government's share of the premiums. Therefore, the employing office continues to be responsible for paying the Government's share of the premiums for the individual affected by these regulations.

We are updating the regulations to include reference to Operation Desert Storm and additional sections in title 10, U.S. Code, that have been used in calling up employees to serve in connection with the Persian Gulf war.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance.

Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, the interim regulations under part 890 published by OPM on September 25, 1990, (55 FR 39131) are made final with the following change:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064.

2. In § 890.502, paragraph (g) is revised to read as set forth below:

§ 890.502 Employee withholdings and contributions.

* * * * *

(g) *Military furlough.* Payment of the employee's share of the cost of enrollment is waived in the case of an employee whose coverage continues under § 890.303(e) following furlough or placement on leave of absence in accordance with the provisions of part 353 of this chapter or other similar authority for the purpose of performing duty not limited to 30 days or less in a uniformed service, if ordered to active duty under section 672, 673, 673b, 674, 675, or 688 of title 10, United States Code, in support of Operations Desert Shield and/or Desert Storm.

[FR Doc. 92–7089 Filed 3–26–92; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV-92-006IR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Relaxation of Handling Requirements for Valencia and Other Late Type Oranges and Honey Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This rule relaxes the minimum size requirement for export shipments of Valencia and other late type oranges to 2$^{11}/_{16}$ inches in diameter (size 163) from 2$^{8}/_{16}$ inches in diameter (size 125) through September 26, 1992. This action also relaxes the minimum grade requirement for domestic and export shipments of Honey tangerines to Florida No. 1 Golden from Florida No. 1 through August 23, 1992. This action is based on this season's current and prospective crop and market conditions, and on the grade, size, and maturity of the remaining supplies of these fruits.

DATES: This interim final rule becomes effective: March 23, 1992. Comments which are received by April 27, 1992 will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–5331.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Marketing Order No. 905, both as amended [7 CFR part 905], regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This interim final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 100 Florida citrus handlers subject to regulation under the marketing order covering oranges, grapefruit, tangerines, and tangelos grown in Florida, and about 10,200 producers of these citrus fruits in Florida. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. A minority of these handlers and a majority of the producers may be classified as small entities.

The Citrus Administrative Committee (committee), which administers the marketing order locally, met January 21, 1992, and unanimously recommended this action. The committee meets prior to and during each season to review the handling regulations effective on a continuous basis for each citrus fruit regulated under the marketing order. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information and determines whether modification, suspension, or termination of the handling regulations would tend to effectuate the declared policy of the Act.

Section 905.306 [7 CFR 905.306] specifies minimum grade and size requirements for Florida citrus. Such requirements for domestic shipments are specified in that section in Table I of paragraph (a), and for export shipments in Table II of paragraph (b).

This action relaxes the minimum size requirement for export shipments of Valencia and other late type oranges to 2$^{11}/_{16}$ inches in diameter (size 163) from 2$^{8}/_{16}$ inches in diameter (size 125) through September 27, 1992. Relaxing the minimum size requirement for Valencia and other late type oranges as specified is expected to make smaller fruit available of acceptable maturity and flavor to meet consumer needs. The Valencia and other late type orange shipping season in Florida normally begins in January and ends with shipment of late-bloom fruit during the following September.

This action also relaxes the minimum grade requirement for domestic and export shipments of Honey tangerines to Florida No. 1 Golden from Florida No. 1 through August 23, 1992. This action allows slightly dryer fruit to be shipped to the fresh market, by permitting a one-quarter inch of dryness on the stem end of the fruit instead of the one-eighth inch currently permitted. This action recognizes the fact that this fruit tends to dry out during the latter part of the shipping season, which normally ends in April. This action will provide Florida shippers with the alternative of shipping Honey tangerines grading Florida No. 1 Golden to the fresh market, rather than diverting them to processing channels where returns would likely be lower than in the fresh market. This action

should make increased supplies of fresh Honey tangerines available to consumers from this season's remaining crop.

The committee recommended this action based on analysis of the grade and size composition of this season's remaining Valencia and other late type orange and Honey tangerine crops. The committee anticipates that the demand will be good for size 163 Valencia and other late type oranges in the export market, and for Florida No. 1 Golden grade Honey tangerines in both the domestic and export markets during the remainder of the 1991–92 season, and that the fruit will meet consumer acceptance.

The minimum grade and size requirements under the marketing order are designed to provide fresh markets with fruit of acceptable quality, thereby maintaining consumer confidence for fresh Florida citrus. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of producers, packers, and consumers, and is designed to increase returns to Florida citrus growers.

Under the marketing order for Florida citrus, handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day, and up to two standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale, under exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commerical processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

This action reflects the committee's and the Department's appraisal of the need to make the grade and size relaxations hereinafter set forth. The Department's view is that this action will have a beneficial impact on producers and handlers since it will allow Florida citrus handlers to ship those grades and sizes of fruit available to meet consumer needs consistent with this season's crop and market conditions.

Paragraph (a), Table I, column 4 of § 905.306 of this rule sets forth the correct minimum diameter requirement for Honey tangerines as 2$^{9}/_{16}$ inches. That requirement was established for Honey tangerines shipped on and after August 18, 1986, by a rule published in the **Federal Register** [51 FR 1572, April 28, 1986]. The minimum diameter requirement for Honey tangerines of 2$^{1}/_{16}$ inches cited in 7 CFR 905.306(a), Table 1 is incorrect, and this rule corrects that error.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matters presented, the information and recommendations submitted by the committee, and other information, it is found that the relaxations set forth below will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes requirements currently in effect for Valencia and other late type oranges and Honey tangerines; (2) Valencia and other late type orange and Honey tangerine shippers in Florida are aware of this action which was unanimously recommended by the committee at a public meeting, and they will need no additional time to comply with the relaxed requirements; (3) shipment of the 1991–92 season Valencia and other late type orange and Honey tangerine crop in Florida is currently in progress; and (4) the rule provides a 30-day comment period, and any comments received will be considered prior to any finalization of this interim final rule.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORDIA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 905.306 is amended as follows:

Note: This section will appear in the annual Code of Federal Regulations.

A. In paragraph (a), Table I, the entry for "Honey tangerines" is revised to read as set forth below.

B. In paragraph (b), Table II, the entries for "Valencia and other late type oranges", and "Honey tangerines" are revised to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) * * * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diamenter (inches)
(1)	(2)	(3)	(4)
* * * *			
Tangerines			
* * * *			
Honey:	March 23, 1992–08/23/92	Florida No. 1 Golden	2$^{9}/_{16}$
	On and after 8/24/92	Florida No. 1	2$^{9}/_{16}$
* * * * *			

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges			
* * * * *			
Valencia and other late type:	March 23, 1992–9/27/92	U.S. No. 1	2 1/16
	On and after 9/28/92	U.S. No. 1	2 1/8
* * * * *			
Tangerines			
* * * * *			
Honey:	March 23, 1992–08/23/92	Florida No. 1 Golden	2 1/16
	On and after 08/24/92	Florida No. 1	2 5/16
* * * * *			

Dated: March 23, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-7040 Filed 3-26-92; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 229, 230, 239, 240, 249, and 269

[Release Nos. 33-6902A; 34-29354A; 39-2267A; IC-18210A; International Series Release No. 291A]

RIN 3235-AC64

Multijurisdictional Disclosure and Modifications to the Current Registration and Reporting System for Canadian Issuers; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final regulations which were published on July 1, 1991 (56 FR 30036).

EFFECTIVE DATE: July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Anita Klein, Office of International Corporate Finance, Division of Corporation Finance at (202) 272-3246.

SUPPLEMENTARY INFORMATION: The Commission adopted the multijurisdictional disclosure system for Canadian issuers on July 1, 1991. As published, the final regulations contain errors which may prove to be misleading and are in need of clarification. In this release, authority citations, rules and forms containing such errors are being corrected.

Accordingly, the publication on July 1, 1991, of the final regulations relating to the multijurisdictional disclosure system for Canadian issuers which were the subject of FR Doc. 91-15402 is corrected as follows:

PART 200—[CORRECTED]

1. On page 30052, in the third column, the amendatory language for amendment 1 is corrected to read as follows:

"1. The general rulemaking authority for part 200, subpart A is revised and the following citations are added to read as follows:"

PART 229—[CORRECTED]

2. On page 30053, in the third column, the amendatory language for amendment 14 is corrected to read:

"14. The authority citation for part 229 is amended by adding the following citations."

3. On page 30054, in the third column, amendment 24(a) is added.

24(a). In § 230.428 paragraph (b)(2) and Instruction 2 are revised to read as follows:

§ 230.428 Documents constituting a section 10(a) prospectus for Form S-8 registration statement; requirements relating to offerings of securities registered on Form S-8.

* * * * *

(b) * * *

(2) The registrant shall deliver or cause to be delivered with the document(s) containing the information required by Part I of Form S-8, to each employee to whom such information is sent or given, a copy of any one of the following:

(i) The registrant's annual report to security holders containing the information required by Rule 14a-3(b) (§ 240.14a-3(b) of this chapter) under the Securities Exchange Act of 1934 (*Exchange Act*) for its latest fiscal year;

(ii) The registrant's annual report on Form 10-K (§ 249.310 of this chapter), U5S (§ 259.5s of this chapter), 20-F (§ 249.220f of this chapter) or, in the case of registrants described in General Instruction A.(2) of Form 40-F, 40-F (§ 249.240f of this chapter) for its latest fiscal year;

(iii) The latest prospectus filed pursuant to Rule 424(b) (§ 230.424(b) of this chapter) under the Act that contains audited financial statements for the registrant's latest fiscal year, *Provided that* the financial statements are not incorporated by reference from another filing, and *Provided further* that such prospectus contains substantially the information required by Rule 14a-3(b) or the registration statement was on Form S-18 (§ 239.28 of this chapter) or F-1 (§ 239.31 of this chapter); or

(iv) The registrant's effective Exchange Act registration statement on Form 10 (§ 249.210 of this chapter), 20-F or, in the case of registrants described in General Instruction A.(2) of Form 40-F, 40-F containing audited financial statements for the registrant's latest fiscal year.

Instructions

* * * * *

2. If the latest fiscal year of the registrant has ended within 120 days (or 190 days with respect to foreign private issuers) prior to the delivery of the documents containing the information specified by Part I of Form S-8, the registrant may deliver a document containing financial statements for the fiscal year preceding the last fiscal year, *Provided that* within the 120 or 190 day period a document containing financial statements for the latest fiscal year is furnished to each employee.

* * * * *

PART 239—[CORRECTED]

4. On page 30055, in the second column, the amendatory language for amendment 28 is corrected to read:

"28. The authority citation for part 239 is amended by revising the general rulemaking authority and adding the following citations."

§ 239.32 [Corrected]

5. On page 30057, in the first column, an amendment to Form F-2 (§ 239.32), General Instruction I.B.2. is added after General Instruction I.A. to read as follows:

B. * * *

2. The provisions of this paragraph (B)(1)(a) do not apply to any registrant if: (i) The aggregate market value worldwide of the voting stock of the registrant held by non-affiliates is the equivalent of $300 million or more, or if non-convertible debt securities that are "investment grade debt securities" as defined below, are being registered and (ii) the registrant has filed at least one Form 20-F, Form 40-F or Form 10-K that is the latest required to have been filed.

* * * * *

PART 240—[CORRECTED]

6. On page 30067, in the third column, the amendatory language for amendment 40 is corrected to read:

"40. The authority citation for part 240 is amended by revising the general rulemaking authority and adding the following citations."

7. On page 30068, in the third column, amendment 48(a) is added.

§ 240.13a-13 [Corrected]

48(a). In § 240.13a-13, amending the first sentence of paragraph (a) after the words "annual reports pursuant to section 13 of the Act" add the words ", and has filed or intends to file such reports" and after the parenthetical "(§ 259.5s of this chapter)" add a ",".

8. On page 30068, in the third column, § 240.13a-16(a) is corrected to read as follows:

§ 240.13a-16 Reports of foreign private issuers on Form 6-K (17 CFR 249.306.)

(a) Every foreign private issuer which is subject to Rule 13a-1 (17 CFR 240.13a-1) shall make reports on Form 6-K, except that this rule shall not apply to:

(1) Investment companies required to file reports pursuant to Rule 30b1-1 (17 CFR 270.30b1-1);

(2) Issuers of American depositary receipts for securities of any foreign issuer; or

(3) Issuers filing periodic reports on Forms 10-K, 10-Q and 8-K.

* * * * *

§ 240.14d-102 [Corrected]

9. On page 30072, in the second column, in the fifth line of General Instruction II. C. of Schedule 14D-1F (§ 240.14d-102), the citation "section 14(a)(3)" is corrected to read "section 14(g)(3)".

PART 249—[CORRECTED]

10. On Page 30075, in the second column, the amendatory language for amendment 60 is corrected to read:

"60. The authority citation for part 249 is amended by revising the general rulemaking authority and adding the following citation."

§ 249.310 [Corrected]

11. On page 30077, in the fourth line of the second column, the second sentence of General Instruction G. (3) of Form 10-K (§ 249.310) is corrected by adding "by virtue of Rule 3a12-3(b) under the Exchange Act" after "Commission" and before the comma.

§ 239.37 [Corrected]

12. On page 30081, Part II. (3) of Form F-7 (§ 239.37), column two, beginning on line twelve "rule 436 or 438" is corrected to read "Rule 436, 438 or 439".

§ 239.38 [Corrected]

13. On page 30085, Part II. (4) of Form F-8 (§ 239.38), column three, beginning on line thirty-nine "rule 436 or 438" is corrected to read "Rule 436, 438, or 439".

§ 239.39 [Corrected]

14. On page 30090, Part II. (5) of Form F-9 (§ 239.39), column one, beginning on line fourteen "Rule 436 or 438" is corrected to read "Rule 436, 438, or 439".

§ 239.40 [Corrected]

15. On page 30092, paragraph J. of General Instruction I. of Form F-10 (§ 239.40) is corrected by adding at the end of the fifth line of the first column "rights offering circular (in the case of exempt rights offerings) or".

§ 239.40 [Corrected]

16. On page 30094, Part II. (5) of Form F-10 (§ 239.40), column three, beginning on line thirty-one "Rule 436 or 438" is corrected to read "Rule 436, 438, or 439".

§ 239.41 [Corrected]

17. On page 30099, Part II. (4) of Form F-80 (§ 239.41), column two, beginning on line forty-eight "Rule 436 or 438" is corrected to read "Rule 436, 438, or 439".

§§ 239.42, 249.250 and 269.5 [Corrected]

18. On page 30102, in lines 21 and 22 of the third column, in General Instruction II.E.b. of Form F-X (§§ 239.42, 249.250, 269.5), remove the words "an exemption under Rule 4d-1" and add in place thereof "Rule 10a-5".

§§ 239.42, 249.250 and 269.5 [Corrected]

19. On page 30103, in the first column, Form F-X (§§ 239.42, 249.250, 269.5), Instruction 2 is corrected by removing the third sentence "Each copy shall be manually signed."

Dated: March 23, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-7084 Filed 3-26-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 81, 176, 177, and 184

[Docket No. 92N-0089]

Food and Color Additives; Generally Recognized as Safe Substances; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive, food additive, and generally recognized as safe (GRAS) regulations to correct certain typographical and other inadvertent errors.

EFFECTIVE DATES: March 27, 1991.

ADDRESSES: Written comments may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Linda S. Kahl, Center for Food Safety and Applied Nutrition (HFF-333), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-254-9523.

SUPPLEMENTARY INFORMATION: FDA has discovered that certain errors have become incorporated into the agency's codified regulations on color additives, food additives, and GRAS substances. FDA is correcting these errors. These corrections are nonsubstantive, and therefore no new rulemaking is necessary. The following errors in the regulations are corrected in this document:

1. In 21 CFR 81.1 *Provisional lists of color additives*, the introductory text lists obsolete references to § 81.1(f), which was removed in the **Federal Register** of September 30, 1977 (42 FR 52393); § 81.1(g), which was removed in the **Federal Register** of July 28, 1981 (46 FR 38500 at 38501) and March 12, 1982 (47 FR 10804 at 10805); and 21 CFR 81.27, which was removed in the **Federal Register** of February 1, 1990 (55 FR 3516

at 3519). The agency is removing these obsolete references.

2. In 21 CFR 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods*, in the table in paragraph (a)(5), an entry for poly (diallyldimethylammonium chloride) for use as a flocculent employed prior to sheet-forming operations is being restored. This entry, which was published in the **Federal Register** of October 1, 1982 (47 FR 43365), was inadvertently omitted from the 1988 and subsequent editions of the CFR. The agency is correcting this error.

3. In 21 CFR 177.1520 *Olefin polymers*, in the table in paragraph (c), item 3.2a the word "not" was inadvertently omitted from the phrase "* * * shall not exceed 0.051 millimeter * * *" when item 3.2a was redesignated from item 3.2 and revised at 54 FR 49079 and 49080, November 29, 1989. The agency is correcting this error.

4. In 21 CFR 184.1505 *Mono- and diglycerides*, in paragraphs (c) and (c)(1) "GRAS" and "stabilizer," respectively, were misspelled. The agency is correcting these errors.

FDA notice and public comment on these corrections is unnecessary. These corrections are wholly editorial and nonsubstantive in nature, and FDA is merely correcting these errors.

List of Subjects in 21 CFR

Part 81

Color additives, Cosmetics, Drugs.

Part 176

Food additives, Food packaging.

Part 177

Food additives, Food packaging.

Part 184

Food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR parts 81, 176, 177, and 184 are amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

1. The authority citation for 21 CFR part 81 continues to read as follows:

Authority: Secs. 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371, 376, 376 note).

2. Section 81.1 is amended in the introductory text by revising the last sentence to read as follows:

§ 81.1 Provisional lists of color additives.

* * * The color additives listed in paragraphs (a), (b), and (c) of this section are provisionally listed until the closing dates set forth therein.

* * * * *

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

3. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Secs. 201, 402, 406, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 376).

4. Section 176.170 is amended in paragraph (a)(5) by alphabetically adding a new entry in the table to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	*
Poly (diallyldimethylammonium chloride) (CAS Reg. No. 26062-79-3) produced by the polymerization of diallyldimethylammonium chloride so that the finished resin has a nitrogen content of 8.66 ± 0.4 percent on a dry basis and a minimum viscosity in a 15 weight-percent aqueous solution of 10 centipoises at 25 °C (77 °F), as determined by LVF Model Brookfield viscometer using a No. 1 spindle at 60 r/min (or equivalent method). The level of residual monomer is not to exceed 1 weight-percent of the polymer (dry basis)..	For use only as a flocculant employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 10 mg/L (10 parts per million) of influent water.
* * * * *	

* * * * *

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

5. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

§ 177.1520 [Amended]

6. Section 177.1520 *Olefin polymers* is amended in the table in paragraph (c), in the "Olefin polymers" column, in item 3.2a by revising the phrase "shall exceed 0.051 millimeter" to read "shall not exceed 0.051 millimeter".

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

7. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

§ 184.1505 [Amended]

8. Section 184.1505 *Mono- and diglycerides* is amended in the second sentence of paragraph (c) by removing "(GARS)" and adding in its place "GRAS)" and in paragraph (c)(1) by removing "stabilzer" and adding in its place "stabilizer".

Dated: March 23, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-7106 Filed 3-26-92; 8:45 am]

BILLING CODE 4160-01-M

Proposed Rules

Federal Register
Vol. 57, No. 60
Friday, March 27, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-NM-28-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped With General Electric CF6-45/50 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes equipped with General Electric CF6-45/50 series engines. This proposal would require repetitive inspections to detect cracking of the number 1 strut idler pulley support bracket assembly; inspections of all associated fasteners for tightness, and tightening of any loose fasteners found; and replacement of the bracket assembly. This proposal is prompted by recent reports of fatigue cracks found in the thrust control cable idler pulley support brackets on the number 1 strut. The actions specified by the proposed AD are intended to prevent the loss of engine thrust control.

DATES: Comments must be received by May 18, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-28-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. G. Michael Collins, Aerospace Engineer, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2689; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-28-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-28-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

There have been five recent reports of fatigue cracks found in the number 1 strut idler pulley support bracket on Boeing Model 747 series airplanes. A cracked pulley support bracket could lead to chafing of the "B" thrust control cable. If the "B" cable should break in reverse thrust, the tension in the "A" cable will cause the engine to go to full reverse thrust. If the "B" cable should break while in forward thrust, tension in the "A" cable will cause the engine to go idle. This condition, if not corrected, could result in the loss of engine thrust control.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-76A2083, dated December 18, 1991, that describes procedures for repetitive visual inspections to detect cracking of the number 1 strut idler pulley support bracket assembly; and inspections of all associated fasteners for tightness, and tightening of any loose fasteners found. The service bulletin also provides procedures for replacement of the existing aluminum pulley support bracket assembly with a pulley bracket made of Inconel 625 which, when accomplished, would eliminate the need for the repetitive inspections previously described.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive inspections to detect cracking of the number 1 strut idler pulley support bracket assembly; inspections of all associated fasteners for proper tightness, and tightening of any loose fasteners found; and replacement of the bracket assembly with a bracket assembly made of Inconel 625. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 140 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 4 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $630 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,160.

The regulations proposed herein would not have substantial direct effects

on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 92–NM–28–AD.

Applicability: Model 747 series airplanes; line positions 202 through 886, inclusive; equipped with General Electric CF6–45/50 series engines; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent the loss of engine thrust control, accomplish the following:

(a) Prior to or upon the accumulation of 9,000 total flight hours on the airplane, or within 60 flight hours after the effective date of this AD, whichever occurs later, perform a visual inspection of the number 1 strut idler pulley support bracket assembly to detect cracks; and inspect all associated fasteners for proper tightness; in accordance with Boeing Alert Service Bulletin 747–76A2083, dated December 18, 1991.

(1) If a crack is found in the bracket assembly, prior to further flight, replace the bracket assembly in accordance with the service bulletin.

(2) If no cracks are found in the bracket assembly, return the airplane to service and repeat the inspections required by paragraph (a) of this AD at intervals not to exceed 600 flight hours.

(3) If any fasteners are found to be loose, prior to further flight, tighten those fasteners to within specified torque limits, in accordance with the service bulletin.

(b) Within 18 months after the effective date of this AD, replace the bracket assembly, in accordance with Boeing Alert Service Bulletin 747–76A2083, dated December 18, 1991.

(c) Replacement of the bracket assembly, as required by paragraph (b) of this AD, constitutes terminating action for the repetitive inspections required by paragraph (a)(2) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 17, 1992.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–7099 Filed 3–26–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–34–AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model ATP series airplanes. This proposal would require installation of an intercompressor case (ICC) fire detector system. This proposal is prompted by reports of engine fires that originated from a bearing failure inside the ICC on Pratt and Whitney PW126 series engines. The actions specified by the proposed AD are intended to prevent severe structural damage to the airplane resulting from an engine ICC fire.

DATES: Comments must be received by May 18, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–34–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location betwen 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–34–AD." The

postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-34-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The United Kingdom Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model ATP series airplanes. The CAA advises that there have been six reports of engine fires that originated from a bearing failure inside an intercompressor case (ICC) on Pratt and Whitney PW126 series engines. The fires were undetected until no longer contained by the ICC. An internal engine fire within the ICC may not be detectable in time to prevent severe structural damage to the airplane.

Although none of these fires have occurred on British Aerospace Model ATP series airplanes, these airplanes are equipped with Pratt and Whitney PW126 series engines and, therefore, are susceptible to such engine ICC fires.

The FAA's Engine and Propeller Directorate recently issued a proposal to require the installation of the engine portion of an ICC fire detector system in accordance with Pratt and Whitney Service Bulletin PW100-72-21097, dated November 9, 1991. This installation involves replacement of the existing switching valve-to-rear inlet case sealing air tube assembly with a similar tube assembly featuring an integral fire detector. The Engine and Propeller Directorate projects that all affected engines will be modified in accordance with that service bulletin by June 1, 1992.

Additionally, British Aerospace has issued Service Bulletin ATP-26-5-35225A, dated October 30, 1991, that describes procedures for installation of the airframe portion of an ICC fire detector system. Installation of this system will provide an early warning signal to the cockpit in the event of an internal engine fire within the ICC. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined the AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require installation of an ICC fire detector system. The actions would be required to be accomplished in accordance with the British Aerospace service bulletin described previously.

This is considered interim action. Pratt and Whitney is currently developing a modification of the Pratt and Whitney PW126 series engine that will provide a more reliable bearing, and will effectively preclude an ICC fire resulting from a bearing failure. Once such modification is developed, approved, and available, the FAA may consider further rulemaking.

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 9 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $985 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $14,800, or $1,480 per airplane.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 Amended

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 92-NM-34-AD.

Applicability: Model ATP series airplanes; serial numbers 2001 through 2045, inclusive; which have been modified in accordance with Pratt and Whitney Service Bulletin PW100-72-21097, dated November 8, 1991; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent severe structural damage to the airplane due to an internal engine fire within the intercompressor case, accomplish the following:

(a) Within 90 days after modification in accordance with Pratt and Whitney Service Bulletin PW100-72-21097, dated November 8, 1991, or within 90 days after the effective date of this AD, whichever occurs later: Install an intercompressor case (ICC) fire detector system, in accordance with British Aerospace Service Bulletin ATP-26-5-35225A, dated October 30, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 17, 1992.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-7100 Filed 3-26-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR. Ch. II

[Docket No. 920363-2063]

Request for Comments on a Proposal To Establish the Conformity Assessment Systems Evaluation Program (CASE)

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: This is to advise the public that the National Institute of Standards and Technology (NIST) is seeking public comments on a proposal to establish a voluntary Conformity Assessment Systems Evaluation (CASE) Program. The proposed program would enable the Department of Commerce, acting through NIST, to provide assurance of the competence of individual conformity assessment bodies, which should lead to enhancing acceptance of U.S. products in international markets.

NIST is proposing to offer, on a fee for service basis, a voluntary program for evaluating the competence or conformity assessment bodies and providing official recognition of those which qualify under established criteria. The program will include activities related to laboratory testing, product certification, and quality system registration.

This notice solicits comments from interested parties on the NIST proposal. In order to structure the proposed program to satisfy needs, NIST seeks specific comments regarding: (1) U.S. industry needs to satisfy foreign conformity assessment requirements (testing, certification, accreditation, quality assessment, etc.); (2) areas related to conformity assessment where industry would like to have NIST concentrate its efforts; and (3) the conformity assessment standards, criteria, or other factors required of industrial sectors of which NIST should be aware. After reviewing all comments received on these subjects, NIST will publish in the **Federal Register** further details and proposed codification of the planned procedures.

DATES: All persons who wish to present written remarks regarding this proposal must submit their comments on or before May 26, 1992. Commentors must include name, address, telephone/fax number(s), and affiliation.

ADDRESSES: Comments may be mailed to Dr. Stanley I. Warshaw, Director, Office of Standards Services, National Institute of Standards and Technology, Administration Building, room A-603, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Stanley I. Warshaw, telephone 301-975-4000, FAX 301-963-2871.

SUPPLEMENTARY INFORMATION: The written comments received will be on file after May 27, 1992 in the U.S. Department of Commerce Central Reference and Records Inspection Facility, room 6020, Hoover Building, Washington, DC 20230, (202-377-4115), for public perusal or copying.

Consistent with the growing importance of standardization and conformity assessment activities to international trade, NIST is soliciting views and recommendations regarding the establishment of a voluntary program by which the U.S. Government will recognize qualified conformity assessment bodies.

The qualifying criteria will follow those used internationally to the maximum feasible extent and help to ensure that U.S. conformity assessment activities lead to greater acceptance of U.S. products in world markets. The ultimate result will be the elimination of multiple testing of products and reducing the difficulties now encountered by U.S. industry having to conduct conformity assessment of products abroad.

Background

In keeping with the objectives stated in the joint communique issued by then Commerce Secretary Mosbacher and EC Commission Vice President Bangemann in June 1991, and as supported by related private sector testimony at hearings of the Department of Commerce, conducted by the International Trade Administration (ITA), in 1989 and the National Institute of Standards and Technology (NIST), in 1990, NIST proposes to establish a voluntary Conformity Assessment Systems Evaluation (CASE) Program. This program would enable NIST to evaluate the competency of requesting conformity assessment bodies and provide appropriate assurances.

Conformity assessment is used here in the sense of determining whether a product "conforms" to required standards, specifications, or other applicable descriptors, with the resultant attestation of such conformity. Of particular importance to CASE are the elements of laboratory testing, product certification, and third-party quality system registration.

The EC and the governments of other trading partners have indicated a desire to deal with a government entity which can provide assurance of the validity of U.S. conformity assessment activities pertaining to products regulated in foreign countries. To implement its regulations, the EC has established a harmonized conformity assessment approach based on "Notified Bodies" that are designated (notified) by a governmental body in each member state. The EC is soon expected to allow for Mutual recognition agreements (MRAs) with third country conformity assessment programs, such as those in the United States, if their respective Governments offer assurances that designated conformity assessment programs satisfy specified criteria.

In order to be prepared for action in this regard, NIST has analyzed the potential role for its services. Conformity assessment activities have been classified into three hierarchical levels which have been embodied in the CASE proposal.

The conformity level addresses activities that provide the actual conformity of a product or of an organization, i.e., the direct evaluation, by some entity, of a product, service, or quality system, against a standard or specification. The evaluating entity may be a testing laboratory, a product certifier, or a quality system registrar.

The accreditation level relates to entities that evaluate and accredit testing laboratories, certification bodies, or quality system registrars.

The recognition level relates to entities which provide evaluation and recognition to the accreditation level. For example, the Fastener Quality Act—Public Law 101-592 stipulates that NIST will provide recognition to qualifying laboratory accreditation bodies.

Proposal: Conformity Assessment Systems Evaluation (CASE)

NIST proposes to establish criteria and a system to evaluate and, when requested or directed, recognize specified conformity assessment activities. Program operation would be fully fee supported.

Scope

CASE would be prepared, when requested, to provide NIST accreditation to certification bodies and registration bodies, at the accreditation level. NIST already offers accreditation to testing laboratories through its National Voluntary Laboratory Accreditation Program (NVLAP).

CASE would also be prepared, when requested, to provide NIST recognition to laboratory accreditation bodies, accreditors of certification bodies, and

accreditors of registrars at the recognition level.

NIST does not anticipate CASE operating at the conformity level.

Program Development

NIST proposes to devise a common procedural approach for all evaluation activities to be undertaken, relying on appropriate consensus standards and guides relating to conformity assessment.

Although the general approach will be similar, the specific criteria for each area of concern at each level will differ according to the nature of the activity to be evaluated.

The main initial concern of CASE will therefore be to develop separate, unique criteria for evaluating different kinds of conformity assessment activities, e.g., laboratory accreditation systems, certification systems, registration systems and, as necessary, for different technical or product areas. This activity will require substantial input from interested parties, supplied from public workshops or by industry sectoral committees, such as those currently serving (1) the information technology sector, represented by the Information Technology Steering Committee (ITSC) and (2) the pressure vessel sector represented by the Pressure Technology Sectoral Technology Advisory Committee (PT-STAC). A significant number of existing national and international documents as well as other model systems will be used as resources for this activity.

Procedure

The process will be initiated by voluntary application by an entity, payment of fees, quality system evaluation, quality documentation evaluation, on-site assessment, final evaluation, and approval decision. Participation will be voluntary and open to all entities which desire NIST recognition in the areas offered.

When an applicant fully demonstrates conformity with all program requirements, NIST will grant recognition in the form of a certificate of recognition and a document describing the specific scope of the recognition.

Dated: March 24, 1992.

John W. Lyons,

Director.

[FR Doc. 92-7126 Filed 3-26-92; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Chapter I

[Docket No. RM91-10-000]

Determination Not To Establish a Negotiated Rulemaking Committee

March 20, 1992.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of determination not to establish a negotiated rulemaking committee.

SUMMARY: On December 12, 1991, the Federal Energy Regulatory Commission issued a notice of intent to establish a negotiated rulemaking committee. 56 FR 65863 (December 19, 1991); IV FERC Stats. & Regs. ¶ 35,021 (1991). The Commission indicated that the purpose of the nogotiated rulemaking committee was to develop a uniform and comprehensive proposed regulation governing *ex parte* communications between persons outside the Commission and Commission officials and employees. After considering the comments and the applications for membership on the negotiated rulemaking committee, the Commission has decided not to establish a negotiated rulemaking committee.

FOR FURTHER INFORMATION CONTACT: Michael Schopf, Associate General Counsel, Enforcement and General & Administrative Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, Phone: (202) 208-0457.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect and copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the text of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC.

I. Introduction

On December 12, 1991, the Federal Energy Regulatory Commission (FERC or Commission) issued a notice of intent to establish a negotiated rulemaking committee (notice of intent). 56 FR 65863 (December 19, 1991); IV FERC Stats. & Regs. ¶ 35,021 (1991). The Commission indicated that the purpose of the nogotiated rulemaking committee was to develop a uniform and comprehensive proposed regulation governing *ex parte* communications between persons outside the Commission and Commission officials and employees. IV FERC Stats. & Regs. ¶ 35,021 at 35,133. After considering the comments and the applications for membership on the nogotiated rulemaking committee, the Commission has decided not to establish a committee. Instead, the Commission will convene a public conference to afford interested persons an opportunity to discuss with the Commission and the staff revision of its *ex parte* rules.

II. Discussion

A. Comments

The Commission received 12 comments in response to its Notice of Intent to Establish a Negotiated Rulemaking Committee.[1] The Commission also received letters from Chairman Dingell of the United States House of Representatives, Committee on Energy and Commerce and Chairman Synar of the United States House of Representatives, Committee on Government Operations, Subcommittee on Environment, Energy, and Natural Resources. These letters, which have been placed in the public file, raise questions as to whether a negotiated rulemaking is an appropriate vehicle to help formulate the Commission's new *ex parte* regulation. None of the other commenters opposed using negotiated rulemaking procedures in order to

[1] Comments were received from the American Gas Association (AGA), the American Public Gas Association (APGA), Associated Gas Distributors (AGD), CSA Energy Consultants (CSA), International Association of Fish and Wildlife Agencies (IAFWA), the National Association of Regulatory Utility Commissioners (NARUC), the National Association of State Utility Consumer Advocates (NASUCA), the National Rural Electric Cooperative Association (NRECA), United Distribution Companies (UDC), United States Department of Agriculture—Forest Service (DOA-FS), the United States Department of Energy (DOE), and the United States Department of the Interior (DOI).

review the Commission's *ex parte* rule.[2] Nine of the twelve comments filed were applications for membership on the committee.[3] The Commission proposed a 19-member committee in its notice of intent. See IV FERC Stats. & Regs. ¶ 35,021 at p. 34,134. Two comments supporting the Commission's notice came from associations that were included in the Commission's proposed list of committee members.[4] In addition, one commenter criticized the proposed committee as containing only members of the legal profession. However, the commenter did not nominate anyone for membership on the committee.[5]

B. Determination Not to Establish the Committee

Section 585 of the Negotiated Rulemaking Act of 1990 (NRA) provides that if an agency decides not to establish a negotiated rulemaking committee, the agency must publish notice of, and the reasons for, its decision. 5 U.S.C. 585(a)(2) (1988, as amended). The Commission has several reasons for not establishing the committee.

First, the NRA recognizes as a factor in determining whether "reg-neg" is appropriate, that there be a "limited number of identifiable interests" that will be significantly affected by a rule. The original Committee proposed by the Commission had 19 members and nine commenters have put in applications for membership in the Committee. In view of the comments and applications, we are concerned that the number of significant identifiable interests here may be too large to permit them to be represented by a balanced committee of workable size. A "reg-neg" committee may therefore be inefficient and ineffective.

In addition, effective alternative means are available to obtain early public participation. Specifically, we have decided to adopt an approach that will: (1) Retain a central benefit of the negotiated rulemaking process (*i.e.*, participation in the developmental phase of the rulemaking by interests significantly affected by the *ex parte* rules), and (2) eliminate the concerns of those opposed to use of negotiated rulemaking to revise the rules. Concurrent with the issuance of this notice, the Commission is issuing a Notice of Public Conference on the revision of the Commission's *ex parte* rules. Any interested person may attend the conference, may submit a request to speak at the conference, and may submit written comments. In the notice of Public Conference, the Commission has identified certain specific issues on which further Commission guidance may be warranted. However, the public conference is not limited to the identified topics and any interested person may comment on any aspect of the Commission's *ex parte* rules.

The use of a public conference will allow the Commission and the staff, before proposing a revised rule, to draw on the experience, expertise, and knowledge of the persons and entities who practice before it. Thus, the public conference (as with negotiated rulemaking) will allow for the early participation of affected interests in the development of an NOPR. After issuance of a NOPR, any interested person (including all participants in the public conference) will have the right to comment on the Commission's proposal pursuant to section 553 of the Administrative Procedure Act (APA). 5 U.S.C. 553 (1988 as amended).

III. Conclusion

For the reasons expressed herein, the Commission decides not to establish a negotiated rulemaking committee in this proceeding.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-7076 Filed 3-26-92; 8:45 am]

BILLING CODE 6717-01-M

[2] The Commission's *ex parte* rules are embodied in rule 2201 and rule 1415 of the Commission's Rules of Practice and Procedure. 18 CFR 385.2201 and 385.415.

[3] See the comments of APGA, AGD, IAFWA, NASUCA, NRECA, UDC, DOA-FS, DOE and DOI.

[4] See the comments of AGA and NARUC.

[5] See the comments of CSA recommending that members of the engineering profession be included in the committee.

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18 CFR Chapter I

[Docket No. RM91-10-000]

Regulations Governing Ex Parte Communications; Public Conference

March 20, 1992.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of public conference.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is convening a public conference to afford interested persons an opportunity to discuss with the Commission and the staff revision of its *ex parte* regulations. The Commission is conducting a comprehensive review of the rules governing communications between persons outside the Commission and the Commission and its employees. The goal is to develop a new, uniform regulation that provides clearer guidance on the scope of permissible and prohibited off-the-record communications, and allows the maximum amount of information to be available to the Commission consistent with maintaining the full integrity of the Commission's decisionmaking process. The conference will allow early participation by all interested persons in the development of a proposed new rule.

DATES: The public conference will be held on Monday, April 20, 1992, at 10 a.m. Requests to participate should be received by the Commission on or before April 1, 1992. Written statements should be filed on or before April 1, 1992, and should include a one-page executive summary.

ADDRESSES: The conference will be held in the Commission's Hearing Room Number 1, 810 First Street, NE., Washington, DC. All requests to participate should identify the name of the speaker, the group represented, refer to Docket No. RM91-10-001 and be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Schopf, Associate General Counsel, Enforcement and General and Administrative Law, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-0597.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register** the Commission also provides all interested persons an opportunity to inspect and copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

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I. Introduction

The Commission is convening a public conference to afford interested persons an opportunity to discuss with the Commission and the staff its regulation governing *ex parte* communications between persons outside the Commission and members of the Commission and its employees. The Commission is undertaking a comprehensive review of its current *ex parte* regulations, codified in rule 1415 [1] and rule 2201 [2] of its Rules of Practice and Procedure. Rule 1415 applies to *ex parte* communications in oil pipeline proceedings. The Commission adopted this rule without substantive change from the rules of the Interstate Commerce Commission.[3] Rule 2201 applies generally to all proceedings, except oil pipeline proceedings,[4] pending before the Commission. The Commission adopted this rule without substantive change from the Rules of Practice and Procedure of the Federal Power Commission (FPC).[5] The FPC last revised its *ex parte* rule in 1977, in response to enactment of section 4 of the Government in the Sunshine Act.[6]

On December 12, 1991, the Commission issued notice of its intent to establish a negotiated rulemaking committee to develop a new, comprehensive *ex parte* regulation.[7] After considering the comments and applications filed in response to that notice, the Commission has decided not to establish this committee.[8] Instead, the Commission is convening a public conference. The conference will enable the Commission and the staff to receive information from the wide variety of interests and groups affected by its *ex parte* communications prohibitions prior to issuance of a Notice of Proposed Rulemaking.

II. Purpose of the Conference

The purpose of the conference is to allow interested persons to participate as fully as possible in the early stage of development of a new *ex parte* regulation. The Commission expects that after consideration of the comments made at the public conference and its own review, it will propose a new, comprehensive regulation governing *ex parte* communications. Any new rule will apply prospectively. The rulemaking process will not consider specific conduct or allegations involving *ex parte* communications in past or pending proceedings.

The Commission is interested in establishing clearer guidance as to the scope of the *ex parte* prohibitions in trial-type and adjudicatory proceedings. We encourage interested persons to present their views on how the Commission can fashion a new regulation on *ex parte* communications that achieves this goal. For example, clearer guidance is necessary on whether the *ex parte* prohibitions should apply to all Commission employees or be more limited, *e.g.*, only to Commissioners, their personal staff and/or other decisional employees. For example, clearer standards are necessary to govern informal consultations between the Commission and our environmental staff and other Federal or state agencies having environmental responsibilities or interests, as well as contacts by the Commission and our staff with applicants and other persons for the purpose of obtaining information necessary to the staff's environmental analysis.

There is likewise a need for a clearer definition to distinguish between general background discussions with the Commission and its employees, which are permitted by the Administrative Procedure Act (APA), and prohibited communications relevant to the merits of specific proceedings.[9]

There is a need for clearer definition to distinguish between permissible status inquiries or purely procedural communications and prohibited communications that are relevant to the merits of a specific proceeding.[10]

There is a need to define the extent of permissible communications with the Commission and its employees related to industry filings made in compliance with Commission orders. Parties often seek rehearing of orders in contested proceedings. Guidance is required as to the standards applicable to communications about compliance filings while the underlying proceeding is pending before the Commission on rehearing.

Also, while the *ex parte* prohibitions are not applicable to informal general policy rulemakings, additional guidance may be necessary to assure that significant off-the-record communications are reflected in the public rulemaking file so that they may be considered in the Commission's notice and comment decisional process. Since wide and diverse public participation in the formulation of general Commission policy is clearly desirable, the Commission favors procedures that will allow us to consider the viewpoints and information provided by persons outside the Commission in the decisional process of rulemakings. The Administrative Conference of the United States, for example, has recommended that agencies experiment "with procedures designed to disclose oral communications of significant information or argument respecting the mertis of proposed rules * * *." [11] The Commission is interested in considering such possible procedures.

At the public conference, interested persons are encouraged to address the issues listed in the Appendix to this Notice. They should also feel free to address any other issue relating to the adoption of a new, comprehensive *ex parte* regulation having prospective effect. The Commission strongly encourages comments on any aspect of its *ex parte* rules. The Commission's goal is to revise the rules to establish clear policy which, while maintaining the integrity of the decisionmaking process, will allow the Commission access to the broad range of information it needs to fulfill its statutory responsibilities.

III. Procedures

Persons wishing to participate in the conference must file a request to participate on or before April 1, 1992. The requests should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Requests to speak should identify the name of the speaker and the group represented, and should refer to Docket No. RM91–10–001.

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[1] 18 CFR 385.1415.

[2] 18 CFR 385.2201.

[3] Congress transferred jurisdiction over oil pipeline rates and valuation from the Interstate Commerce Commission in 1977. Department of Energy Organization Act, section 402(b), 42 U.S.C. 717(b) (1988). *See* Order No. 225, Revision of Rules of Practice and Procedure to Expedite Trial-Type Hearings, [Reg. Preambles 1982–85] FERC Stat. & Reg. ¶ 30,358 at 30,173 (1982). *See also* Order No. 376, Clarification of the Rules of Practice and Procedure, [Reg. Preambles 1982–85] FERC Stat. & Reg. ¶ 30,568 at 30,942 (1984).

[4] 18 CFR 385.2201(b)(10).

[5] Order No. 225, Revision of Rules of Practice and Procedure to Expedite Trial-Type Hearings, [Reg. Preambles 1982–85] FERC Stat. & Reg. ¶ 30,358 at 30,171 (1982).

[6] 5 U.S.C. 557(d) (1988). *See* Order No. 562, Adoption of Rules Governing Observation of Commission Meetings and *Ex Parte* Communications, 57 FPC 1538 (1977).

[7] Notice of intent to Establish a Negotiated Rulemaking Committee, 56 FR 65863 (1991), IV FERC Stat. Reg. ¶ 35,021.

[8] *See* Notice of Determination Not to Establish a Negotiated Rulemaking Committee, issued simultaneously with this notice.

[9] 5 U.S.C. 557(d) (1988); H.R. Rep. No. 880, 94th Cong., 2d Sess. 20 (1976), reprinted in 1976 U.S.C.C.A.N. 2183, 2202.

[10] *Id.*

[11] *Id.*

Participants are encouraged to address the questions in the Appendix and should be prepared for a full day of discussion. The Commission may not be able to accommodate all requests to participate in the conference. However, the Commission will seek to ensure that the various interests affected by its procedures are adequately represented. The Commission invites, but does not require, written statements from any interested persons on its *ex parte* regulations. Any such statement should include a one-page executive summary. An original and fourteen copies of the written statements should be filed with the Secretary on or before April 1, 1992.

By direction of the Commission.

Commissioner Trabandt concurred with a separate statement attached.

Lois D. Cashell,

Secretary.

Appendix to Notice of Public Conference

The Commission encourages those who wish to participate at the public conference to discuss any aspect of our regulations governing *ex parte* they believe is unclear or otherwise in need of revision. The Commission encourages those who wish to participate to come prepared to discuss the areas listed below. Participants should respond in light of the Commission's stated goal: To develop a new, uniform regulation that provides clearer guidance on the scope of permissible and prohibited off-the-record communications, and allows the maximum amount of information to be available to the Commission consistent with maintaining the full integrity of the Commission's decisionmaking process. Those submitting written statements are also encouraged to address the areas listed below.

I. Prefiling Meetings

A. Should the Commission [1] impose *ex parte* restrictions on prefiling meetings to explain and discuss a proposed filing?

B. If so, what procedures should be adopted to allow for such meetings? Should the scope of the Commission's existing regulations governing pre-filing consultations be broadened or narrowed?

C. Should prefiling meetings be required to be noticed? If so, how?

II. Pending Cases

A. When should the *ex parte* restrictions come into play? When an application or rate filing—

1. Is received by the Commission?
2. Is noticed by the Commission?
3. Is protested?
4. Is set for hearing?

B. Need for additional information

1. Once an application or rate filing is received by the Commission, should the Commission be permitted to meet with an applicant to seek supplemental information or data necessary for an understanding of the application or rate filing without the *ex parte* restrictions applying?

2. If so, should there be any limitation on what may be discussed at such a meeting?

3. Should the Commission be required to give public notice of any meeting seeking supplemental information or data?

4. How should the Commission define the difference between "supplemental information or data necessary for an understanding of an application" and a discussion relating to the merits of a pending application?

C. Information already in the record

1. Should the Commission be permitted to meet with an applicant or other party to discuss information that is already in the record of a pending case?

2. If so, should the Commission be required to give public notice of any such meeting or discussion?

D. Under what circumstances, if any, should the *ex parte* prohibitions bar consultation between the Commission and other federal agencies or state or local government agencies?

E. Should the prohibitions apply to all persons outside the Commission or only "interested persons" as under the APA provision (5 U.S.C. 577(d))? Should the same prohibitions apply to communications with nonparties as apply to communication with parties?

F. Should the Commission maintain a list of "decisional employees" for each proceeding?

G. To the extent the *ex parte* rules do apply, what procedures should be followed upon receipt of a prohibited communication?

III. Meeting NEPA Requirements

A. Should the Commission be permitted to meet with an applicant to seek supplemental information, or to understand data contained in an application, in order to meet the requirements of the National Environmental Policy Act of 1969 without the *ex parte* restrictions applying?

B. Should the Commission be permitted to meet with other governmental entities (other federal agencies, for example, or state or local government agencies) and other persons affected by the project in order to meet the requirements of NEPA without the *ex parte* restrictions applying?

C. If so, should the applicant or other parties be allowed to be present?

D. If so, should such a meeting be required to be noticed?

IV. Procedural Inquiries

A. Should the Commission provide an exemption from the *ex parte* restrictions for procedural inquiries or status reports?

1. If so, how should such an inquiry or status report be defined?

2. To whom would such an exemption apply?

3. Should a record of such an inquiry nonetheless be required to be put in the public file of the case?

B. How should the difference between a merits discussion and a procedural inquiry or status report be defined? What procedural matters are *not* relevant to the merits of a proceeding?

C. Under what circumstances, if any, should the *ex parte* prohibitions bar a party's inquiry as to the procedural status of a case or a request for prompt Commission action?

D. Under what circumstances, if any, should the *ex parte* prohibitions bar consultation between the Commission and other federal agencies or state or local government agencies?

E. Order No. 555, the proposed incentive rate policy statement and the Final Rule (Mega-NOPR) all posit a state of affairs where rate cases and other formal FERC proceedings will be less frequent. Thus, there will not be FERC staff counsel assigned to most cases. How will this change a number of the exceptions under existing part 2201(b)? What additional standards will be required to protect against *ex parte* communication for such procedures as the proposed reconciliation meetings under Order No. 555?

V. Informal Rulemakings

A. To what extent, if any, should the *ex parte* prohibitions apply to informal rulemakings when issues treated therein are before the Commission in adjudications or other contested proceedings?

B. Should the Commission adopt any guidelines or procedures governing disclosure of significant off-the-record communications that relate to a forthcoming or pending rulemaking? If so—

1. What should they be?

2. Should they apply to discussions with Congress, other federal agencies, or state or local government agencies?

VI. General Background Discussions

A. What is a general policy issue?

B. Should the Commission be prohibited from discussing a general policy issue with anyone?

C. What restrictions, if any, should apply if the policy issue under discussion is pending in an adjudication or other contested proceeding?

VII. Investigations

A. What changes, if any, need to be made to the regulations at section 1b to address procedures to be followed for investigations of allegations of *ex parte* communication?

B. Should the *ex parte* regulations set forth options for procedures to be used in addressing *ex parte* allegations? If so, what should these options be?

Regulations Governing Ex Parte Communications (Notice of Public Conference)

[Docket No. RM91-10-000]

Issued March 20, 1991.

TRABANDT, Commissioner, concurring:

I concur in the instant Notice of Public Conference and the companion Notice of Determination Not To Establish A Negotiated Rulemaking Committee contemporaneously issued in this docket. I write separately to

[1] In each case where the word Commission is used, it is intended to mean any Member of the Commission, or of his or her personal staff, or any employee of the Commission.

discuss several issues related to these companion Notices.

First, I strongly support the Commission's determination not to establish a negotiated rulemaking committee. I have steadfastly opposed the establishment of a negotiated rulemaking committee for regulations governing *ex parte* communications for the reasons set forth in my separate opinion concurring in part and dissenting in part to the Commission's December 12, 1991, Notice of Intent to Establish a Negotiated Rulemaking Committee. Without belaboring those arguments, I believe the Commission has finally reached the right result in abandoning the negotiated rulemaking approach to *ex parte* regulations.

Second, I continue to have serious concerns about several of the subjects set for review in the forthcoming Public Conference, about which I wrote in the context of the previously proposed negotiated rulemaking. For the convenience of interested parties, I will simply repeat excerpts from that separate opinion.

1. Introduction

At the outset, I want to make three points very clear. First, I want to state categorically my deep respect for the views of Chairman Allday and my fellow Commissioners on this sensitive subject. I recognize fully that this is a matter of judgment that involves a number of factors in terms of fact, law and policy, as well as our own individual personal experiences on these matters. That I have a strong preference for a traditional NOPR does not by any measure suggest any lack of respect for my colleagues' own assessment of those factors or their conclusion.

Second, I am not opposed at all to clarifying the operation of the *ex parte* rules as they apply to adjudications. In fact, I agreed with Commissioner Moler's suggestion to that effect during the *Iroquois* proceeding (52 FERC ¶ 61,091) and *ex parte* investigation last year. As the discussion at the Commission meeting made clear, all five members of the Commission are willing to put in place such a clarification, and I strongly support that objective.

Third, I am not opposed to the use of the negotiated rulemaking procedure in our regulation of jurisdictional companies in the electric power, hydroelectric, natural gas and oil pipeline industries. In an appropriate case, the negotiated rulemaking procedure would provide a valuable alternative to the traditional NOPR, as the Environmental Protection Agency has found in the past and Congress established by statute in the Negotiated Rulemaking Act of 1990, 5 U.S.C. 581. I look forward with considerable enthusiasm to the initiation of a negotiated rulemaking in one of our regulatory program areas in the near future. And, I am confident that rules fashioned in a negotiated rulemaking procedure can provide the significant advantages over adversarial rulemakings that Congress contemplated, such as [1] increasing the acceptability and improving the substance of rules, [2] making it less likely that the affected parties will resist enforcement or challenge such rules in court, and [3] shortening the amount of time needed to issue final rules. But, at bottom, I am simply not persuaded that this is the appropriate case.

I also believe that it also bears repeating, as I wrote during the Iroquois *ex parte* review and subsequently informal correspondence to Chairman Dingell of the Committee on Energy and Commerce and Chairman Conyers of the Committee on Government Operations of the U.S. House of Representatives, that we should not let the *ex parte* rules be used as the basis for gagging, intimidating, mushrooming or muzzling us in the conduct of our official offices. I have maintained an "open door" policy since I took the oath of office as a Commissioner on November 4, 1985. Within the limitations of the *ex parte* rules and other applicable Commission regulations, I have met with literally hundreds of company officials, trade association representatives, consumer and environmental organization representatives, U.S. state and local officials, Canadian Federal and provincial officials and other interested groups. I also have attended and spoken at numerous meetings and conferences involving such groups and officials since November 1985.

As I have said before, I consider such communications to be an important function of the Commission and this office, in terms of both explaining Commission policies to interested parties and maintaining an up-to-date understanding of current industry conditions. It also is interesting to note that during the course of the Iroquois project proceedings over the past several years, I met in that fashion, subject to the aforementioned limitations, with various parties who also happened to be supporters or opponents of the project, including representatives of the project, equity owning utilities, various state officials, the Independent Petroleum Association of America and the New England Fuel Institute, among many others. There were no *ex parte* communications from any party related to Iroquois project proceedings in any such meetings or discussions, nor with regard to any other pending adjudication. (Footnote omitted.)

In regard to the Commission's need to have access to outside information, I was thoroughly heartened by the discussion of the *ex parte* issue in the *per curiam* opinion of the U.S. Court of Appeals for the District of Columbia Circuit in *Louisiana Association of Independent Producers and Royalty Owners* v. *FERC*, No. 91–1026, decided March 10, 1992, regarding the Iroquois/Tennessee Project. The Opinion states, as follows (slip op. at 18–20):

> The Coalitions' complaints about the meetings in April and May of 1990 also are without support in the record. Although the meetings took place during the pendency of this proceeding, there is no evidence in the record, other than a single, quickly reproached comment, of any discussion going to the merits of the Project applications. The meetings focused instead upon the impact of cases pending at that time before this court, upon general problems in the industry, and upon the procedural status of the Iroquois application. Such discussions are not prohibited by the mere fact an application is pending. The Administration Procedure Act bars *ex parte* communications only if they are "relevant to the merits of the proceeding." 5 U.S.C. 557(d)(1)(A). Other communications, including inquiries into the procedural status of the case or general background discussions, are not prohibited. *See, e.g., Professional Air Traffic Controllers Org.* v. *FLRA*, 685 F.2d 547, 563 [D.C. Cir. 1982].
>
> Moreover, acting upon the chance that the industry representatives were attempting subtly and indirectly to influence the outcome of this proceeding,[3] the Commission wisely placed summaries of these meetings in record. By doing so, it apprised the petitioners of any argument that may have been presented privately, thereby maintaining the integrity of the process and curing any possible prejudice that the contacts may have caused in this case. 5 U.S.C. 557(d)(1)(C) & (D); *PATCO* v. *FLRA*, 685 F.2d at 565 & n.36; *Sierra Club* v. *Costle*, 657 F.2d 298, 398–99 [D.C. Cir. 1981].
>
> [3] Representatives from the LDCs noted a cold snap the previous December, discussed the general supply-and-demand picture for the Northeast, and urged that Iroquois' application be processed in a timely or expedited manner. Considering all these factors together, one might infer a circuitous attempt to impress upon the Commission the urgency of approving the Iroquois/Tennessee Project. It is, however, important to note that none of the factors mentioned by the representatives were news to the Commission. Moreover, in public letters to the Commission during the same time period, the industry representatives presented a more complete and direct argument for expedited considerations and approval.
>
> By the same token, the Commissioners involved in those meeting properly refused to disqualify themselves due to these contacts. Because the record reveals at best subtle and indirect attempts to influence Commission officials, no disinterested observer would infer that those officials had in any measure prejudged the applications. *Cinderella Career & Finishing School* v. *FTC*, 425 F.2d 583, 591 (D.C. Cir. 1970). It is expected that administrative officials will build up expertise through experience with recurring issues. *FTC* v. *Cement Inst.*, 333 U.S. 683, 702 (1984). Such expertise should not lightly be tossed aside. *Cf. Laird* v. *Tatum*, 409 U.S. 824, 837 [1972] (memorandum by Justice Rehnquist).
>
> In short, while there were meetings between agency officials and Iroquois and other industry officials, the record supports the Commission's conclusion that there was nothing improper about those meetings. Agency officials may meet with members of the industry both to facilitate settlement and to maintain the agency's knowledge of the industry it regulates. As this court has noted before, "such informal contacts between agencies and the public are the 'bread and butter' of the process of administration and are completely appropriate so long as they do not frustrate judicial review or raise serious questions of fairness." *HBO* v. *FCC*, 567 F.2d at 57. Because we find no evidence in the record indicating that judicial review has been frustrated or that any serious questions of fairness have been presented, we sustain the Commission's finding that "the integrity

of the decisionmaking process has been fully maintained." Order No. 357 at 61,719.

I should note, as the court did in footnote 3 of the opinion, that the Court did not consider the report prepared by the General Accounting Office regarding the meetings covered by the General Counsel's memorandum, which was the subject of separate hearings earlier this year in the Subcommittee on Environment, Energy, and Natural Resources of the House Committee on Government Operations. My quotation of the court's opinion here does not serve to alter in any substantive way my testimony in those hearings. Rather, I quote this passage to highlight the emphasis the court again places on "such informal contacts between agencies and the public are the 'bread and butter' of the process of administration and are completely appropriate so long as they do not frustrate judicial review or raise serious questions of fairness." (Emphasis added.) I am pleased to see that emphasis in this most recent statement of the court and urge all parties to reflect it in the formulation of their comments.

The instant Notice states that, "while the *ex parte* prohibitions are not applicable to informal general rulemakings, additional guidance may be necessary to assure that significant off-the-record communications are reflected in the public rulemaking file so that they may be considered in the Commission's notice and comment decisional process." (Slip op. at 6.) I would reiterate the concerns expressed in my December 19, 1991 separate opinion, as attached.[1]

Finally, the Appendix to this Notice sets forth a comprehensive sentence outline of the many potential *ex parte* issues in existing regulations. I would suggest one additional issue for the consideration of interested parties, as I did at the March 11, 1992 Commission meeting. And, that issue is the relationship of the Commission's *ex parte* regulations to the Commission's separation of functions regulations. Based on recent experience, I am concerned that the clear functional lines between Commission employees serving as trial staff in adjudications and those serving as advisory staff for specific cases may be increasingly blurred under current Commission practice. With the advent of "paper hearings," preliminary determinations," enforcement settlement negotiations, and Commission directed "settlement conferences" (such as those under Order No. 528) in lieu of traditional, trial-type, evidentiary hearings in many adjudications today, advisory staff at various levels of authority from General Counsel/Office Director to less senior Commission staff now apparently participate in proceedings where they could be exposed to information that might constitute an *ex parte* communication under certain separation of function circumstances, but not necessarily under other such circumstances. I would invite interested parties to address this issue in the context of how the Commission should analyze refinement of the *ex parte* rules in this docket in the context of that perceived blurring of the separation of function lines, and whether the Commission should consider refinement or reform of the separation of function regulations, and if so, how, concurrently with this *ex parte* review.

For these reasons, I concur.

Charles A. Trabandt,

Commissioner.

[FR Doc. 92-7077 Filed 3-26-92; 8:45 am]

BILLING CODE 6717-01-M

[1] Copies of the attachment are not being published in the **Federal Register** but are available in copies of the Notice from the Commission's Public Reference Room.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-42-90]

RIN 1545-AO69

Bad Debt Reserves of Thrift Institutions; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (FI-42-90), which was published in the **Federal Register** on January 13, 1992 (57 FR 1232). The proposed regulations relate to the thrift institutions that become ineligible to use the reserve method of accounting for bad debts allowed by section 593 of the Internal Revenue Code (Code).

FOR FURTHER INFORMATION CONTACT: Bernita L. Thigpen, (202) 566-3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of these corrections provides guidance for thrift institutions that become ineligible to use the reserve method of accounting for bad debts allowed by Internal Revenue Code section 593. The proposed regulations set forth rules on changing from and returning to this method of accounting, and the proposed regulations provide procedures for complying with these rules. These proposed regulations are issued under the authority of Internal Revenue Code section 446 and 481.

Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of proposed regulations (FI-42-90), which was the subject of FR Doc. 92-697, is corrected as follows:

§ 1.593-14 [Corrected]

1. On page 1242, column 3, § 1.593-14(d)(6), line 4 of paragraph (i) of *Example 1*, the language "Pursuant to § 1.593-13(c)(2), in 1992 R restates" is corrected to read "Pursuant to § 1.593-13(c)(2), in 1992 T restates".

§ 1.593-14 [Corrected]

2. On page 1243, column 1, § 1.593-14(d)(6), paragraph (ii) of *Example 3*, last line of that column, the language "Under the principles of § 1.593-14(d)(4)(iv)," is corrected to read "Under the principles of § 1.593-14(d)(4)(v),".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-6488 Filed 3-26-92; 8:45 am]

BILLING CODE 4830-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1625

Age Discrimination in Employment Act

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: The Commission hereby publishes a request for comments regarding the Age Discrimination in Employment Act of 1967, as amended (ADEA), 29 U.S.C. 621 *et seq.*, relating to Titles I and II of the Older Workers Benefit Protection Act of 1990 (OWBPA), Pub. L. 101-433, 104 Stat. 978 (1990).

DATES: Comments should be submitted on or before July 27, 1992.

ADDRESSES: Comments should be submitted, in quadruplicate if possible, to: Executive Secretariat, EEOC, 1801 L Street, NW., Washington, DC 20507.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Director, ADEA Division, Paul E. Boymel (Title I questions) or John K. Light (Title II questions), Office of Legal Counsel, EEOC, 1801 L Street, NW., Sixth Floor, Washington, DC 20507, (202) 663-4690.

SUPPLEMENTARY INFORMATION: As the result of the decision of the United States Supreme Court in *Public Employees Retirement System of Ohio* v. *Betts*, 492 U.S. 158 (1989), Congress amended the ADEA in 1990 to clarify the prohibitions against discrimination on the basis of age in employee benefits (Title I of OWBPA). Additionally, in Title II of OWBPA Congress addressed waivers of rights and claims under the

ADEA. The Commission wishes to receive comments on certain OWBPA provisions, and to obtain information on certain technical issues under OWBPA.

Title I of OWBPA

Section 4(a)(1) of the ADEA sets forth the employer conduct that is prohibited (unlawful discrimination by employment agencies and labor organizations is covered by sections 4(b) and 4(c) of the ADEA, respectively):

> (a) It shall be unlawful for an employer—
> (1) To fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age.

However, Congress fashioned an exception to the general prohibitions in section 4(a)(1). Prior to the passage of OWBPA, that exception, in section 4(f)(2), provided:

> It shall not be unlawful for an employer, employment agency, or labor organization—
> (2) To observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Act, except that no such employee benefit plan shall excuse the failure to hire any individual and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a) of this Act because of the age of such individual.

On June 21, 1969, the Department of Labor (DOL), which at that time had jurisdiction over the ADEA, published in the **Federal Register** an Interpretative Bulletin on employee benefit plans under section 4(f)(2), 34 FR 9709, 29 CFR 860.120. After the ADEA was amended in 1978 to preclude the mandatory retirement of covered employees under an employee benefit plan, and to raise the upper age limit under the ADEA from 65 to 70, DOL issued an amended Interpretative Bulletin (1979 I.B.), 44 FR 30648 (May 25, 1979). The 1979 I.B. provided more detailed guidance on employee benefit plans covered under the ADEA and provided special rules for pension plans. The 1979 I.B. reiterated DOL's 1969 interpretation of section 4(f)(2), the so-called "equal cost or equal benefit" test:

> The legislative history [of section 4(f)(2)] indicates that its purpose is to permit age-based reductions in employee benefit plans where such reductions are justified by significant cost considerations * * *. Where employee benefit plans do meet the criteria in section 4(f)(2), benefit levels for older workers may be reduced to the extent necessary to achieve approximate equivalency in cost for older and younger workers. A benefit plan will be considered in compliance with the statute where the actual amount of payment made, or cost incurred, in behalf of an older worker is equal to that made or incurred in behalf of a younger worker, even though the older worker may thereby receive a lesser amount of benefits or insurance coverage.
>
> 44 FR 30658 (May 25, 1979).

The Commission continued the I.B. in effect when it took over jurisdiction of the ADEA on July 1, 1979. On July 1, 1987, the I.B. was redesignated as 29 CFR 1625.10. With a few exceptions, the rules in the 1979 I.B. remained intact until June 23, 1989, the date of the *Betts* decision.

In *Betts*, the Supreme Court determined, among other things, that the "equal cost or equal benefit" interpretation set forth in the I.B. was not consistent with the ADEA, and was an incorrect interpretation of the ADEA's "subterfuge" provision. The Court further declared that employee benefit plans were exempt from the purview of the ADEA as long as such plans were not a method for discriminating in non-fringe benefit aspects of employment.

Congress decided that the ruling in *Betts* warranted a legislative response. On October 16, 1990, President Bush signed OWBPA which amended section 4 of the ADEA in significant detail. In principal part, Title I of OWBPA took the following steps:

(1) OWBPA amended section 11 of the ADEA to make it clear that "employee benefits" would be included in the definition of "compensation, terms, conditions, or privileges of employment" in section 4(a)(1) of the ADEA.

(2) OWBPA amended section 4(f)(2) to incorporate the equal cost or equal benefit principle embodied in the regulations at 29 CFR 1625.10, as in effect on June 22, 1989.

(3) OWBPA provided exceptions and "safe harbors" for voluntary early retirement plans, severance pay plans, and long-term disability plans.

(4) OWBPA addressed special concerns of State and local governments regarding potential cost increases in two ways: (a) By providing for a two-year delayed effective date; and (b) by allowing current employees to elect to retain their present long-term disability coverage when a new plan is implemented even though such present coverage may not comply with the ADEA.

Regarding State and local governments, the Commission wishes to emphasize that the interpretative guidance in 29 CFR 1625.10, and specifically referenced in section 4(f)(2)(B)(i) of the ADEA, is intended to assist State and local governments as well as the private sector in complying with the Act. The Commission welcomes inquiries from State and local governments in need of additional assistance with OWBPA. Such inquiries may be directed to the ADEA Division, Office of Legal Counsel (see p. 1).

Title II of OWBPA

Title II of OWBPA amends section 7 (29 U.S.C. 626) of the ADEA by adding a subsection (f) concerning waivers of rights or claims under the Act. Title II expressly provides that unsupervised waivers may be valid and enforceable if they meet certain enumerated requirements and are otherwise knowing and voluntary.

The amendment made by Title II "shall not apply with respect to waivers that occur before the date of enactment" of the Older Workers Benefit Protection Act. [Section 202(a)].

In light of the foregoing amendments to the ADEA, the Commission seeks specific information relating to any or all of the questions listed below, but also welcoms comments on other areas of concern under OWBPA. While the Commission welcomes technical comments, it is requested that such technical input also be summarized in layperson's terms.

Questions for public comment:

Title I of OWBPA

I. In General

a. Do state and local governments have special concerns in prividing employee benefit plans and in complying with the OWBPA amendments? What assistance, if any, do state and local governments need in identifying and securing independent technical advice to comply with OWBPA? (See section 105(c)(3) of OWBPA). See also questions A1 and 2 in section III below.

b. Do private sector employers have special concerns in providing employee benefit plans and complying with the OWBPA amendments?

c. What, if any, changes are required or advisable in the present benefit package approach described in § 1625.10(f)(2) as a result of OWBPA?

d. Does OWBPA affect so-called "cafeteria plans" which provide employees with a choice of benefits or benefit plans. If so, how?

e. In light of the 1986 OBRA amendments to ERISA section 202(a)(2) and IRC section 410(a)(2) removing such an exclusion, is there any basis for continuing to allow the exclusion of individuals from non-ERISA defined benefit pension plans on account of their

age at hire? See 29 CFR 1625.10(f)(1)(iii)(A).

f. Should the Commission provide "safe harbors" (specific examples of permissible plans) with respect to the employee benefit plans discussed in section 1625.10? Please give examples and provide supporting data.

II. Specific Types of Employee Benefit Plans

A. Severance Pay Plans

1. Can benefits other than those described in section 4(1)(2) of the ADEA (additional pension benefits and retiree health benefits) be integrated with severance pay under the ADEA?

2. Does the ADEA as amended by OWBPA allow an employer to require pension-eligible employees to delay the receipt of pension payments until severance payments expire, If so, under what rationale,

3. Section 4(1)(2)(A) of the ADEA permits two deductions from severance pay, one for the value of retiree health benefits and the other for the value of additional pension amounts. If an employee elects not to receive either or both of the two benefits, is the employer permitted to deduct either or both of the amounts from severance pay? If so, under what rationale?

4. How should the deduction for the value of additional pension benefits be calculated? Should the value be based upon a single-life annuity value for all employees? What is the effect of the Internal Revenue Code provision that requires survivor annuities in some circumstances?

5. What is intended by the requirement in section 4(1)(2)(D) that the package of retiree health benefits "be at least comparable" to benefits provided under Title XVIII of the Social Security Act?

6. What was Congress' intent in using the language "the value for each individual" in paras. 4(1)(2)(E) (i)–(iv)?

B. Long-Term Disability (LTD) Plans

The preamble to the § 1625.10 interpretation regarding long-term disability benefits contains a reference to the following plan design:

Age at disablement	Duration of benefits (in years)
61 or younger	To age 65
62	3½ years.
63	3
64	2½
65	2
66	1¾
67	1½
68	1¼
69	1

See 44 FR 30655 (May 25, 1979). The preamble discussion does not refer to this plan as a safe-harbored plan. Rather, it notes that such a plan would be in compliance with the law under a benefit-by-benefit analysis if based on reasonable actuarial data and reasonable extrapolations therefrom. *Id.* The actual safe-harbor, found in § 1625.10(f)(1)(ii), provides that the government will not assert a violation where the level of benefits is not reduced and the duration of benefits is reduced in the following manner:

(A) With respect to disabilities which occur at age 60 or less, benefits cease at age 65.

(B) With respect to disabilities which occur after age 60, benefits cease 5 years after disablement.

1. Is valid data currently available to support use of the above described "preamble plan" as a safe-harbor? Is valid data currently available to support the continued use of the safe harbor in § 1625.10(f)(1)(ii)? Is valid data currently available to develop additional safe harbors? If so, please give examples and provide supporting data.

2. Section 4(1)(3) of the ADEA provides that in certain circumstances pension amounts paid or made available to employees on LTD can serve to reduce the amount of LTD to be paid. How should the value of such pension amounts be calculated (see above at II A 4.)

3. Does section 4(1)(3) include social security payments (retirement payments) as an offset against LTD?

C. Early Retirement Plans

1. Section 4(f)(2)(B)(ii) of the ADEA provides that it is not unlawful to observe the terms of a bona fide employee benefit plan "consistent with the relevant purpose or purposes of this Act." Give examples of plans that you believe would be consistent with the relevant purpose or pusposes of the Act, and provide the rationale for your view.

2. Does OWBPA allow the reduction of elimination of an early retirement benefit in correlation wtih increasing age or increasing years of service? If so, under what circumstances?

3. How should the provision in section 4(1)(1)(B)(i) of the ADEA, "payments that consitute the subsidized portion of an early retirement benefit," be defined?

4. Can the safe-harbored early retirement plans in section 4(1)(1)(B) be offered as lump sum amounts?

5. Is an early retirement plan permitted to combine the safe-harbors listed in section 4(1)(1)(B) of the ADEA, e.g., by offering an incentive package containing a social security supplement and a waiver of actuarial reduction to the same person or group of persons?

6. How is the amount of the social security supplement properly calculated? Is the amount limited to each employee's social security entitlement? Is the employer permitted to calculate an approximate average for the entire workforce or that portion of the workforce affected by the plan?

7. Should the Commission develop a safe-harbor relating to the amount of the social security supplement payment contained in section 4(1)(1)(B)(ii) (e.g., permitting a plan to offer X dollars per month for plans terminating at age 62 or Y dollars per month for plans terminating at age 65), thus relieving employers of the obligation of calculating the amount of such benefits for each employee? How should this amount be calculated?

8. Can an employer that is exempt from Social Security Act coverage offer such a plan? If so, can the plan only be offered to employees who have accrued a social security benefit through other employment?

9. Are social security supplement plans permitted to cut off benefits at ages other than the ages referenced in Title II of the Social Security Act for receiving reduced or unreduced benefits? (E.g., could a plan provide such benefits until the age of 55? 68?) Please provide your reasoning.

D. Life Insurance Plans

1. Does adequate data exist that would allow the Commission to develop a satisfactory safe harbor relating to a specific decrease in benefits based upon age (e.g., a safe harbor could provide that a life insurance plan providing 100 units of coverage for persons in the 55–59 age bracket need only provide 90 units of coverage for persons in the 60–64 age bracket)? Please explain and provide supporting data. Should the Commission attempt to develop such a safe harbor?

2. What, if any, obligation does the employer have to older workers if life insurance is not generally available because of age?

E. Health Insurance Plans

1. Did the OWBPA amendments give rise to health insurance plan issues? If so, describe these issues.

III. Effective Date Issues

A. State and Local Governmental Plans

1. While a delayed effective date applies to many such plans (until October 16, 1992), if a plan is amended prior to that date, when does OWBPA apply?

2. If a plan can be amended either legislatively or by executive action (e.g., by the Governor or Mayor), is such a plan entitled to the delayed effective date?

B. Collectively Bargained Plans

1. If any part of a plan covered by the delayed effective date in section 105(b) of OWBPA is amended prior to the end of the collective bargaining agreement term, is such plan immediately covered by OWBPA?

2. Does the extension of the term of a collective bargaining agreement extend the effective date of OWBPA?

3. In a case in which an employee benefit plan covers both union and non-union employees, is the entire plan entitled to the delayed effective date specified in section 105(B) of OWBPA?

C. Continued Benefit Payments

1. Section 105(e) of OWBPA exempts a series of benefit payments that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date (with other conditions not pertinent to this question). Would a verbal agreement constitute "an arrangement that was in effect" under this section?

2. What actions in providing a substantial modification of a stream of benefits would constitute intent to evade the purposes of the ADEA under section 105(e) of OWBPA?

Title II of OWBPA

a. What is meant by the subparagraph (D) language allowing waivers "only in exchange for consideration in addition to anything of value to which the individual already is entitled?" May an employer who has previously given benefits without requiring a waiver of ADEA rights now change its policy or practice to require such a waiver in exchange for these benefits?

b. What, if any, restrictions are there on using fringe benefits, or certain kinds of fringe benefits, as consideration for a release?

c. What is the legal status of the consideration paid for a waiver if EEOC finds that the waiver is invalid?

d. Does the language in subparagraph (F)(ii) and (H)—"other employment termination program offered to a group or class of employees"—include involuntary terminations such as reductions-in-force?

e. Are the requirements for 21-days, 45-days and 7-days specified in Title II intended to be calendar days or work days? Can these periods be shortened by mutual consent of the parties? Please provide your reasoning.

f. What number of employees is needed to comprise a "group" or "class" as used in subparagraphs (F)(ii) and (H) of Title II?

g. How should the following terms, as used in subparagraph (H) of Title II, be defined: "program;" "group or class of employees;" "class, unit, or group of individuals;" "job classification or organizational unit"?

h. Does OWBPA allow the employer to make the information described in subparagraph (H) available for examination in, for example, its personnel office?

i. What is meant in section 7(f)(2) by the language "in settlement of a charge filed with the Equal Employment Opportunity Commission * * * under section * * * 15?" Does this include all complaints filed by federal sector employees with their employing agencies or is it limited to settlements with ADEA waivers after notice of suit letters are sent by federal employees to the EEOC?

j. Are state Fair Employment Practices (FEP) agencies that have worksharing agreements with the EEOC covered by the requirements of section 7(f)(2)?

k. What are the minimal requirements of knowing and voluntary where an employer and employee privately and independently settle a charge that has been filed with EEOC?

l. Section 7(f)(3) states that "the party asserting the validity of a waiver shall have the burden of proving a court of competent jurisdiction that a waiver was knowing and voluntary." Would the same burden of proof apply in an arbitration proceeding?

Signed on behalf of the Commission this 18th day of March 1992, at Washington, DC.

Evan J. Kemp, Jr.,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 92-6999 Filed 3-26-92; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-4117-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by MAHLE, Incorporated, Morristown, Tennessee, to exclude certain solid wastes generated at its facility from the list of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265 and 268 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The Agency is also proposing the use of a fate and transport model to evaluate the potential impact of the petitioned waste on human health and the environment, based on the waste-specific information provided by the petitioner. The model has been used to evaluate the petition to predict the concentration of hazardous constituents that may be released from the petitioned waste, once it is disposed of.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the fate and transport model used to evaluate the petition. Comments will be accepted until May 11, 1992. Comments postmarked after the close of the comment period will be stamped "late."

Any person may request a hearing on this proposed decision by filing a request with the Director, Characterization and Assessment Division, Office of Solid Waste, whose address appears below, by April 13, 1992. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Delisting Section, Waste Identification Branch, CAD/OSW (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F-91-MIEP-FFFFF."

Requests for a hearing should be addressed to the Director, Characterization and Assessment Division, Office of Solid Waste (OS-

333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing (room M2427) for 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 260–9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (703) 920–9810. For technical information concerning this notice, contact Narendra K. Chaudhari, Office of Solid Waste (OS–333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–4787.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (*i.e.*, ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processess, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to beleive that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although waste which are "delisted" (*i.e.*, excluded) has been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

B. Approoch Used to Evaluate This Petition

This petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, the Agency evaluated the petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). Based on this review, the Agency agreed with the petitioner that the waste is non-hazardous with respect to the original listing criteria. (If the Agency had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition.) EPA then evalutated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considered whether the waste is acutely toxic, and considered the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the qualities of the waste generated, and waste variability.

For this delisting determination, the Agency used such information to identify plausible exposure routes (*i.e.*, ground-water, surface water, air) for hazardous constituents present in the petitioned waste. The Agency determined that disposal in a landfill is the most reasonable, worst-case disposal scenario for MAHLE's petitioned waste, and that the major exposure route of concern would be ingestion of contaminated ground-water. Therefore, the Agency is proposing to use a particular fate and transport model to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the unregulated disposal of MAHLE's petitioned waste on human health and the environment. Specifically, the Agency used the maximum estimated waste volume and the reported leachate concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well downgradient from the disposal site. The calculated receptor well concentrations (referred to as compliance-point concentrations) were then compared directly to the health-based levels used in delisting decision-making for the hazardous constituents of concern.

EPA believes that this fate and transport model represents a reasonable worst-case waste scenario for disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA subtitle C. The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, will not pose a threat to human health or the environment if the petitioner chooses to dispose of the waste in accordance with subtitle D requirements. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors when applying the fate and transport model. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted waste off-site immediately, or will eventually

reach the capacity of the on-site facility and subsequently send the waste off-site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-water monitoring data during the evaluation of delisting petitions. In this case, the Agency determined that, because MAHLE sends the petitioned waste to an off-site, commercial disposal facility (Ohm Corporation, Morrow, Georgia) that receives wastes from numerous other generators, the ground-water monitoring data would not be meaningful for an evaluation of this specific effect of the petitioned waste on ground-water. Therefore, the Agency did not request ground-water monitoring data.

Finally, the Hazardous and Solid Waste Amendements of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at hearings, if any) on today's proposal are addressed.

II. Disposition of Petition

MAHLE, Incorporated, Morristown, Tennessee.

A. Petition for Exclusion

MAHLE, located in Morristown, Tennessee, operates an aluminum piston manufacturing facility. MAHLE petitioned the Agency to exclude its wastewater treatment sludge filter cake resulting from the treatment of wastewater originating from the chemical conversion coating of aluminum. MAHLE's petition is for EPA Hazardous Waste No. F019—"Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process." The listed constituents of concern for the above waste are: hexavalent chromium and cyanide (complexed) (see 40 CFR 261, appendix VII).

MAHLE petitioned the Agency to exclude its wastewater treatment sludge filter cake because it does not believe it contains appreciable amounts of the hexavalent chromium and complexed cyanide for which it was listed. MAHLE also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of MAHLE's petition.

B. Background

On March 23, 1990, MAHLE petitioned the Agency to exclude its wastewater treatment sludge filter cake from the list of hazardous wastes contained in 40 CFR 261.31 and 261.32, and subsequently provided additional information to complete its petition. In support of its petition, MAHLE submitted:

(1) Descriptions of its manufacturing and waste treatment processes, including schematic diagrams; (2) A list of the raw materials and Material Safety Data Sheets (MSDS) for all trade name products used in the manufacturing and waste treatment processes;

(3) Results from total constituent analyses for the eight Toxicity Characteristics (TC) metals listed in 40 CFR 261.24, nickel, sulfide, cyanide, formaldehyde, and toluene; (4) results from the Toxicity Characteristic Leaching Procedure (TCLP; as described in 40 CFR part 261, appendix II) analyses for the TC constituents (except for the herbicides 2,4-D, and 2,4,5-TP), nickel, cyanide, formaldehyde, and methylene chloride;

(5) Results from analyses for total oil and grease;

(6) Results from the Oily Wastes Extraction Procedure (OWEP; SW–846 Method 1330) analyses for the TC metals, nickel, and cyanide; and

(7) Test results and information regarding the hazardous characteristics of ignitability, corrosivity, and reactivity.

MAHLE's piston manufacturing process involves the chemical conversion coating of the aluminum pistons. Pistons are degreased with a non-ionic surfactant containing alkaliphosphates and alkali carbonates; rinsed with water; coated in a galvanizing solution of mineral oil; and then allowed to dry. The manufacturing process operates continuously, five days each week.

There are two sources of wastewater: (1) The galvanizing bath solution which generally becomes spent after about two weeks of use, at which time it is discharged to the treatment system; and (2) the water used to rinse the pistons after being dipped in the galvanizing tanks, which is continuously discharged to the treatment system. Both the spent galvanizing bath and the spent rinse water are collected in a sump in order to accumulate a sufficient volume of wastewater for treatment. Once a sufficient volume of wastewater is accumulated, the wastewater is pumped to a neutralization tank where the wastewater is neutralized to a pH between 8.0 and 8.5 (using sulfuric acid and sodium hydroxide as necessary). The neutralized wastewater than is pumped to a settling tank where the solids are allowed to settle for at least four hours. The supernatant from the settling tank is decanted and discharged to a Publicly Owned Treatment Works (POTW). The settled sludge is dewatered in a plate and frame press. The resulting filter cake (approximately 35–40 percent solids) is stored in 55-gallon drums for off-site disposal. The filtrate from the filter press is returned to the sump for treatment.

To collect representative samples from a filter press like MAHLE's, petitioners are normally requested to collect composite samples comprised of independent grab samples collected over a period of time (*e.g.*, grab samples collected every hour and composited by shift) sufficient to represent the variability or uniformity of the waste. See "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes—A Guidance Manual," U.S. EPA, Office of Solid Waste, (EPA/530–SW–85–003), April 1985.

MAHLE collected a total of fourteen composite (and one duplicate) samples of its wastewater treatment sludge filter cake. Eight of the composite samples, and the one duplicate, were collected during an eight week period between September 1989 and November 1989. The other six composite samples were collected during a five week period between March 1991 and April 1991.

During the first sampling event, each composite sample consisted of four grab samples of filter cake collected over a period of six days from the filter press using a plastic trowel. During the second event, each composite sample consisted of four, eight-inch core samples collected over a period of four days from the daily filter cake storage drum using a stainless steel pipe. The first set of eight composite samples was analyzed for the total concentrations (*i.e.*, mass of a particular constituent per mass of waste) of the TC metals, nickel, sulfide, cyanide, formaldehyde, and toluene; TCLP concentrations of the TC metals, nickel, and cyanide; total oil and grease content; and the hazardous characteristics of ignitability and reactivity. In lieu of pH analyses, MAHLE provided a detailed explanation

of how the treatment system ensures that the waste does not exhibit the hazardous characteristic of corrosivity. The one duplicate sample had a total oil and grease content greater than one percent; therefore, this sample was analyzed using the OWEP to determine the leachable concentrations of the TC metals, nickel, and cyanide.

Of the second set of six composite samples, five were analyzed for the TCLP concentrations of the TC metals and nickel; and all six of the samples were analyzed for the TCLP concentrations of all the TC organic constituents (except for the herbicides 2,4-D and 2,4,5-TP), mercury, formaldehyde, and methylene chloride.

MAHLE claims that due to the consistent manufacturing and treatment process, the analytical data obtained from both sets of samples are representative of any variation in the wastewater treatment sludge filter cake constituent concentrations (including those caused by the bi-weekly discharge of the spent galvanizing solution).

C. Agency Analysis

MAHLE used SW-846 Method Numbers 3050, 6010, and 7471 through 7740 to quantify the total constituent concentrations of the TC metals, nickel and mercury; and SW-846 Method 1311 (TCLP; as described in 40 CFR part 261, appendix II) to quantify the leachable concentrations of the TC metals, nickel, and cyanide (using distilled water in the cyanide extraction). MAHLE also used the Oily Waste Extraction Procedure (SW-846 Method Number 1330) to quantify the leachable concentrations of the TC metals, nickel, and cyanide for one composite sample. MAHLE used SW-846 Method Numbers 9010 and 9030 to quantify the total constituent concentration of reactive cyanide and sulfide, respectively. (Analysis for TC leachable concentrations of sulfide, reactive sulfide, or reactive cyanide are not necessary because the Agency's level of regulatory concern is based on the total concentration of reactive sulfide and reactive cyanide.)

MAHLE used the spectrophotometric method described in § 31.203 of the Association of Official Analytical Chemists (AOAC) Official Methods of Analysis (14th edition) in an attempt to quantify the total concentration of formaldehyde in the first set of eight composite samples and SW-846 draft Method Number 8315 to attempt quantification of formaldehyde in the TCLP extract from the second set of six composite samples. MAHLE used SW-846 Method Number 9071 to quantify the total oil and grease (TOG) in the waste. MAHLE used SW-846 Method Numbers 8020 and 8240 to quantify the total concentration of toluene. Lastly, MAHLE used SW-846 Method Numbers 8240, 8270, and 8080 to quantify the volatile organics, semi-volatile organic, and pesticide TC constituents, respectively.

Table 1 presents the maximum total concentrations of all the TC metals, nickel, reactive cyanide, and reactive sulfide in MAHLE's waste. Table 2 presents the maximum TCLP concentrations of each of the TC metals, nickel, and cyanide.

Analysis for organic constituents were largely negative, except for low levels in the waste for total levels of formaldehyde (1 ppm in two out of seven samples) and toluene (0.002 to 0.026 ppm in five out of seven samples), and traces of chloroform, formaldehyde, and methylene chloride in some of the TCLP samples. MAHLE claimed that these detected levels were analytical artifacts due to laboratory contamination (especially in the first two TCLP analyses performed in the second set of six samples). MAHLE submitted analytical data for TCLP method blanks showing that all of the detected organic constituents were also found in the method blanks at comparable concentrations. After the apparent laboratory contamination was discovered in the first two TCLP samples (of the second set of six), the remaining four samples were sent to another laboratory for methylene chloride analysis; no methylene chloride was detected in these four samples.

The petitioner also submitted statements from the laboratory indicating that the reliability of the method used to analyze for the total concentration of formaldehyde was severely limited at the reported levels of 1 ppm.

MAHLE did not analyze the waste for the characteristics of corrosivity. MAHLE, however, believes that the waste does not exhibit the characteristic of corrosivity, because the wastewater is neutralized with sulfuric acid and/or sodium hydroxide in the pretreatment system to a pH between 8.0 and 8.5 prior to its being dewatered.

TABLE 1.—Maximum Total Concentrations [ppm]

[Wastewater Treatment Sludge Filter Cake]

Constituents	Concentrations
Arsenic	<25.9
Barium	4.8
Cadmium	0.18
Chromium	4.9
Lead	<16.1
Mercury	0.05
Selenium	<24.8
Silver	28.3
Nickel	10.7
Reactive Cyanide	<2
Reactive Sulfide	<1
Total Percent Solids	40%

< Denotes that the constituent was not detected at the detection limit specified in the table.

TABLE 2.—Maximum TCLP Leachate Concentrations [mg/1] [1]

[Wastewater Treatment Sludge Filter Cake]

Constituents	Concentrations
Arsenic	0.11
Barium	0.97
Cadmium	0.01
Chromium	0.05
Lead	0.01
Mercury	0.0007
Selenium	<0.22
Silver	0.01
Nickel	0.57
Total Cyanide	0.05

< Denotes that the constituent was not detected at the detection limit specified in the table.

[1] None of the maximum concentrations were detected using the Oily Waste Extraction Procedure.

The detection limits reported above represent the lowest concentrations quantifiable by MAHLE when using the appropriate SW-846 analytical methods to analyze its waste. Detection limits may vary according to the waste and waste matrix being analyzed, *i.e.*, the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits.

While none of the samples exhibited a total oil and grease (TOG) content above one percent (range, 0.13 to 0.76 percent), a duplicate of sample seven yielded a TOG content of 1.66 percent. The Oily Waste Extraction Procedure (OWEP) methodology was used to determine the leachable concentration of the TC metals and nickel in the one duplicate sample, instead of the TCLP methodology. This method was used to ensure that significant concentrations of the metals of concern are not in the oil phase, which may not be assessed using the standard TCLP methodology (*e.g.*, the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching of metals from the sample). See SW-846 Method Number 1330.

Lastly, on the basis of test results and explanations provided by the petitioner, none of the analyzed samples exhibited the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23.

MAHLE submitted a signed certification stating that its maximum annual generation rate of wastewater treatment sludge filter cake is 24 tons per year (approximately 33 cubic yards per year). The Agency may review a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volume. EPA accepts MAHLE's certified estimate of 33 cubic yards/year of wastewater treatment filter cake sludge.

EPA does not generally verify submitted test data before proposing delisting decisions, and has not verified the data upon which it proposes to grant MAHLE's exclusion. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has maintained a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions. A spot-check visit to a selected facility may be initiated before finalizing a delisting petition or after granting a final exclusion.

D. Agency Evaluation

The Agency considered the appropriateness of alternative waste management scenarios for MAHLE's wastewater treatment sludge filter cake and decided, based on review of information provided in the petition, that disposal in a landfill is the most reasonable, worst-case scenario for this waste. Under this disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The Agency, therefore, evaluated the petitioned waste using the modified EPA composite model for landfills (EPACML) which predicts the potential for ground-water contamination from wastes that are landfilled. See 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991), and the RCRA public docket for this notice for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable worst-case contaminant levels in ground water at a compliance point (*i.e.*, a receptor well serving as a drinking-water supply). Specifically, the model estimates the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from ground-water recharge for a specific volume of waste. The Agency requests comments on the use of the EPACML model as applied to the evaluation of MAHLE's waste.

For the evaluation of MAHLE's petitioned waste, the Agency used the EPACML to evaluate the mobility of the hazardous inorganic and organic constituents detected in the TCLP extract of MAHLE's wastewater treatment sludge filter cake. The Agency's evaluation, using an annual maximum waste volume estimate of 33 cubic yards and the maximum reported leachate concentrations (see Table 2), yielded compliance-point concentrations for the inorganic constituents (see Table 3) that are below the health-based levels used in delisting decision-making. The Agency did not evaluate the mobility of selenium from MAHLE's waste because it was not detected in the TCLP extract using the appropriate SW-846 analytical methods (see Table 2). The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. If a constituent cannot be detected (when using the appropriate analytical method with an adequate detection limit), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 3.—EPACML MODEL: CALCULATED COMPLIANCE-POINT CONCENTRATIONS [PPM] LISTED AND NON-LISTED INORGANIC CONSTITUENTS

[Wastewater Treatment Sludge Filter Cake]

Constituents	Compliance-point concentrations	Levels of regulatory concern[1]
Arsenic	0.0011	0.05
Barium	0.0097	1.00
Cadmium	0.0001	0.005
Chromium	0.0005	0.10
Cyanide	0.0005	0.20
Lead	0.0001	0.015
Mercury	0.000007	0.002
Nickel	0.0057	0.010
Silver	0.0001	0.05

[1] See "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions," July, 1991, located in the RCRA public docket.

The wastewater treatment sludge filter cake exhibited arsenic, barium, cadmium, chromium, cyanide, lead, mercury, nickel, and silver levels at the compliance point below the health-based levels used in delisting decision-making.

As noted previously in today's notice, MAHLE claimed that the few organics detected in TCLP extracts of the waste were analytical artifacts, and provided data indicating that the only three organic constitutents detected were also found at comparable levels in the method blanks. While formaldehyde (1 ppm) and toluene (maximum level of 0.026 ppm) were reported in the waste itself (before leaching), the contamination reported in the TCLP method blanks call these levels into question. Furthermore, the reported level of 1 ppm for formaldehyde is also at the detection level for the method used.

In any case, the Agency believes that, even if formaldehyde and toluene were present, the maximum levels in the waste (1 ppm and 0.026 ppm, respectively) would be well below levels of concern. Specifically, if it is assumed that all of these constituents were extracted by the TCLP method, the maximum levels in the TCLP extract would be about one-twentieth (five percent) of the maximum levels in the waste, due to the use of an extraction volume that is equivalent to twenty times the mass of the waste (see the TCLP method as described in SW–846). Therefore, the maximum TCLP levels would be 0.025 ppm for formaldehyde and 0.0013 ppm for toluene. Both of these levels are below the health-based levels used in delisting decisions (See "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions," July 1991, located in the RCRA public docket), and use of the EPACML-derived DAF of 100 would yield compliance-point concentrations that are even lower.

The total constituent concentrations of reactive cyanide and reactive sulfide are below the Agency's interim standards of 250 ppm and 500 ppm, respectively. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, internal Agency memorandum in the RCRA public docket. Lastly, on the basis of test results and explanations provided by the petitioner, pursuant to 40 CFR 260.22, the Agency concludes that the waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23.

E. Conclusion

The Agency believes that MAHLE's wastewater treatment system can render the filter cake waste non-hazardous. The Agency believes that the sampling procedure used by MAHLE

was adequate, and that the samples are representative of the day-to-day variations in constituent concentrations found in the wastewater treatment sludge filter cake.

The Agency, therefore, considers MAHLE's filter cake waste as a non-hazardous waste, as it should not present a hazard to either human health or the environment based on the above evaluation. The Agency proposes to grant an exclusion to MAHLE, Incorportaed, located in Morristown, Tennessee, for its F019 wastewater treatment sludge filter cake resulting from the treatment of wastewater generated through the chemical conversion coating of aluminum. If the proposed rule becomes effective, the wastewater treatment sludge filter cake would no longer be subject to regulation under 40 CFR parts 262 through 268 and the permitting standards of 40 CFR part 270.

F. Annual Testing

If a final exclusion is granted, the petitioner will be required to demonstrate, on an annual basis, that the characteristics of the petitioned waste remain as originally described. In order to confirm that the characteristics of the waste do not change significantly, the facility must, on an annual basis sample and test for the constituents listed in 40 CFR 261.24 using the TCLP method. The annual analytical results (including quality control information) must be compiled, certified according to 40 CFR 260.22(i)(12), maintained on-site for a minimum of five years, and made available for inspection upon request by representatives of EPA or the State of Tennessee. Failure to maintain the required records on-site will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA.

The purpose of this testing requirement is to ensure that the quality of the petitioned waste remains as originally described by the petitioner. The Agency believes that the data obtained from the annual recharacterization of the petitioned waste will assist EPA (*e.g.*, RCRA facility inspectors) in determining whether the petitioner's manufacturing or waste treatment processes have been significantly altered, or if the waste is more variable than originally described by the petitioner. The Agency also believes that the annual recharacterization of the petitioned waste is not overly burdensome to the petitioner, and notes that these data will assist the petitioner in complying with 40 CFR 262.11(c) which requires generators to determine whether their waste is hazardous, as defined by the Toxicity Characteristic (see 40 CFR 261.24).

If made final, the proposed exclusion will only apply to the processes and waste volume (a maximum of 33 cubic yards generated annually) covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or treatment processes are significantly altered such that an adverse change in waste composition (*e.g.*, if levels of hazardous constituents increased significantly) or increase in waste volume occurred. Accordingly, the facility would need to file a new petition for the altered waste. The facility must treat waste generated either in excess of 33 cubic yards per year or from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition would be relieved from subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

This rule, if finally promulgated, will become effective immediately upon such final promulgation. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this exclusion should be effective immediately upon final promulgation. These reasons also provide a basis for making this rule effective immediately upon promulgation under the Administrative Procedure Act, 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact, therefore, due to today's proposed rule. This proposal is not a major regulation; therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: March 16, 1992.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of appendix IX of part 261, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * * * *
MAHLE, Inc.	Morristown, TN.	Wastewater treatment sludge filter cake (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum (generated at a maximum annual rate of 33 cubic yards). In order to confirm that the characteristics of the waste do not change significantly, the facility must, on an annual basis, test a representative composite sample for the constituents listed in 40 CFR 261.24 using the method specified therein. The annual analytical results, including quality control information, must be compiled, certified according to 40 CFR 260.22(i)(12), maintained on-site for a minimum of five years, and made available for inspection upon request by any employee or representative of EPA or the State of Tennessee. Failure to maintain the required records on-site will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent directed by EPA.
*	*	* * * * * * *

[FR Doc. 92-6915 Filed 3-26-92; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 57, No. 60
Friday, March 27, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States. The meeting will be held at 9:30 a.m., on Friday, April 10, 1992, at the Adminstrative Conference of the United States, suite 500, 2120 L Street NW., Washington, DC (Library, 5th floor).

The Committee will meet for discussion of a study by Harold Krent, Assistant Professor at the University of Virginia Law School, of the operation of the Equal Access to Justice Act.

For further information concerning this meeting, contact Mary Candace Fowler, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., suite 500, Washington, DC (Telephone: 202–254–7065.)

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committtee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: March 25, 1992.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 92–7185 Filed 3–26–92; 8:45 am]

BILLING CODE 6110–01–M

Committee on Rulemaking; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the meeting of the Committee on Rulemaking of the Administrative Conference of the United States.

Committee on Rulemaking

Date: Monday, March 30, 1992
Time: 3 p.m.
Location: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037 (Library, 5th Floor)
Agenda: The Committee will meet to discuss: (1) Procedural rule exemption project, and (2) Professor Robert Anthony's study of non-rule rulemaking
Contact: Kevin L. Jessar, 202–254–7020.

Attendance at the committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request. The contract person's mailing address is: Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: 202–254–7020.

Dated: March 25, 1992.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 92–7278 Filed 3–26–92; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Stamp Program: Employment and Training Demonstrations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of intent.

SUMMARY: This notice announces the intention of the United States Department of Agriculture (the Department), pursuant to section 1756 of the Mickey Leland Memorial Domestic Hunger Relief Act (title XVII, Pub. L. 101–624), to enter into cooperative agreements with selected State agencies to assist such agencies in the conduct of a demonstration project to test conformance between the Food Stamp Employment and Training (E&T) Program, operated by the Department's Food and Nutrition Service (FNS), and the Job Opportunities and Basic Skills (JOBS) Program operated by the United States Department of Health and Human Services (DHHS) for recipients of Aid to Families with Dependent Children (AFDC). The Department is also encouraging conformance activities involving programs operated under the Job Training Partnership Act (JTPA), administered by the United States Department of Labor (DOL), and education and training programs operated by the United States Department of Education(ED).

This demonstration project will operate under the authority of section 17(b)(3) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2011–2032). The purpose of the project is to improve consistency and cooperation among employment and training programs, reduce costs and barriers to appropriate services, and enhance current E&T services to recipients. The Secretary will assist selected project areas in conducting demonstration projects to increase the coordination between the E&T Program and other similar Federal programs, in order to improve the self-sufficiency of food stamp recipients and decrease their dependence on assistance programs. The intent of this notice is to solicit proposals from State and/or local agencies wishing to conduct conformance demonstrations during the project. This notice establishes the terms and conditions for the project and institutes uniform criteria for evaluating proposals and selecting participating project areas.

State/local agencies interested in participating in this project are invited to request a Cooperative Agreement Package, which contains detailed information and instructions on preparing and submitting demonstration proposals. Local agency proposals must be submitted through and approved by the State agency, which will be responsible for overall control of the demonstration(s) conducted within its

boundaries and for coordination with the Department. Each proposal must contain signed agreements from the appropriate State officials authorizing the demonstration. The Department will not negotiate or enter into any contractual arrangements with agencies below the State level.

DATES: Requests for cooperative agreement packages must be received by May 26, 1992. During this period, the Department welcomes public comment concerning the terms and conditions of the project. Any changes made as a result of comments received shall be incorporated in the Cooperative Agreement Package, which will be mailed to applicants no later than June 8, 1992. From the release date of the Cooperative Agreement Packages applicants will have approximately 45 days in which to submit their completed demonstration project proposals.

ADDRESSES: Interested agencies should submit a written request for a cooperative agreement package (and include four self-addressed labels) to the address listed below: USDA, Food and Nutrition Service, Contract Management Branch, ASD, Attn: Ronald R. Rouse 3101 Park Center Drive, room 914, Alexandria, Virginia 22302–1594.

FOR FURTHER INFORMATION CONTACT: Ronald R. Rouse, Contract Specialist, at the address listed above or telephone (703) 305–2250.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291 and Department Regulation 1512–1

This notice has been reviewed under Executive Order 12291 and Department of Agriculture Regulation No. 1512–1 and has been classified by the Department as nonmajor. The annual effect of this notice on the economy will be less that $100 million. This notice will not result in major increases in costs or prices for consumers, individual industries, Federal, State of local government agencies, or geographic regions. It will not have significant adverse effects on competition, investment, productivity and innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export martkets. This notice will have a beneficial effect on employment in that it will improve the operations of the Food Stamp E&T Program, thereby improving efforts to assist food stamp recipients obtain and retain employment.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This notice has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601—612). Betty Jo Nelsen, Administrator of the Food and Nutrition Service, has certified that the demonstration project described in this notice will not have a significant economic impact on a substantial number of small entities because the demonstrations will be conducted in limited areas. State and local welfare agencies will be affected to the extent that they administer the demonstration project. Those food stamp recipients participating in the demonstration project will be affected by this action in that the provisions of the Food Stamp Act affecting the rights of recipients may be waived to the extent necessary to conform to the provisions of section 402, and sections 481 through 487, of the Social Security Act (42 U.S.C. 402, 481–487).

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

Background

There is an emerging consensus that the fragmentation of income maintenance, social services, and employment and training programs is a major barrier to the efficient and effective delivery of services intended to increase self-sufficiency and reduce dependency. This employment and training demonstration is part of a government-wide effort to simplify welfare programs and coordinate their administration. Among the ongoing activities related to this demonstration are: Efforts by DOL, DHHA, and ED to improve coordination in the JOBS Program; the Service Integration Working Group of the Economic Empowerment Task Force: and the Department's Welfare Simplification and Coordination Advisory Committee. Groups such as the National Commission on Employment Policy and the American Public Welfare Association have been active in these welfare reform activities.

The Federal government's goal in establishing the various study groups, task forces and demonstrations is to provide more effective services to welfare recipients more efficiently.

In the case of employment assistance, the three largest service providers (JTPA, JOBS, and E&T) serve target groups with similar needs. Indeed, current JOBS and E&T programs rely heavily on JTPA for employment services. The intake, screening and assessment procedures for the three programs are also very similar. Moreover, in most States JOBS and E&T are administered by the same agency and services are often provided by the same staff.

However, differences between the two programs with respect to eligibility and participation requirements, availability of services, and penalties for non-compliance add administrative complexity to both programs.

The demonstration described in this notice offers the opportunity to develop and test consistent policies and procedures in the three employment and training programs. A more coordinated approach to providing employment services will result in greater effectiveness and efficiency among these programs. Ultimately, the Federal Government will seek consistency with other programs like JTPA and Vocational Education in the context of the Job Training 2000 initiative.

The E&T/JOBS Conformance Demonstration Project

In 1990, the Department completed a national evaluation of the E&T Program. The results of this evaluation (which was based on data collected in 55 sites across the country) indicated that E&T had no effect on participants' employment and earnings in its first full year of operation (1988). These results were discouraging. Only about half of the persons eligible for E&T participated in the program. Moreover, E&T participants did no better than nonparticipants in obtaining employment services and employment or increasing their earnings. No definitive explanation for these disappointing results are available, but possible reasons for the outcome include lack of intensive employment services, shortage of funding for staff and facilities, and inadequate coordination with other employment programs, such as JOBS and JTPA, resulting in competition for available resources.

The Department is committed to the operation of effective, high quality employment and training programs which efficiently provide services to those who need them. The Department believes this can be achieved, in part, by enhanced utilization of the employment, training, and educational services available through JOBS. Since E&T and JOBS serve a large common population and promote similar goals, increased consistency and coordination between the two programs would be more efficient, more cost effective, and would enhance service to recipients.

However, the substantial differences in the legislation authorizing the E&T and JOBS programs, along with differing regulatory policies, impede, and in some instances prevent, coordination. Congress—concerned about these differences—included in section 1756 of the Mickey Leland Memorial Domestic Hunger Relief Act (title XVII, Pub. L. 101–624) a provision which authorizes the Secretary of Agriculture to conduct a demonstration project to test conforming the E&T and JOBS programs. This provision, along with section 17(a)(1) of the Food Stamp Act (7 U.S.C. 2026(a)(1)) will allow the Secretary to assist selected State and local agencies in conducting research on the administration of the Food Stamp E&T Program by means of a demonstration project.

Under section 1756 the Secretary will assist States in conducting this demonstration project in up to 60 project areas, or parts of project areas, for a period not to exceed four years. A project area is defined at 7 CFR 271.2 as the political subdivision designated by a State agency as the administrative unit for Food Stamp Program operations. A city, Indian reservation, welfare district, or any other entity with clearly defined boundaries, or any combination of such entities, may be designated as a project area, or a State as a whole may be designated as a single project area. In order to achieve demonstration results that typify the national scope of the E&T Program, the Department will, in the proposal selection process, place special emphasis on choosing sites that area broadly representative of the Program, including urban, rural, and suburban areas and large and small areas. Project boundaries in effect on January 1, 1990 will be used. Current project areas will not be redefined for demonstration purposes.

To conduct the project, the Secretary is authorized to waive the employment and training requirements under section 6(d) of the Food Stamp Act (7 U.S.C. 2015(d)). This waiver will permit a participating project area, with the approval of the State agency, to operate its E&T Program on the same terms and conditions under which it operates its JOBS Program, i.e. in accordance with the State JOBS plan approved by the Secretary of Health and Human Services as meeting all of the requirements of part F, sections 481 through 487, and section 402(a)(19) of the Social Security Act.

Additionally, this waiver will allow a participating project area to provide child care services and work-related supportive services in accordance with the State Supportive Services plan mandated by JOBS Program regulations at 45 CFR 255.1.

However, the provision of transitional child care benefits under clauses (ii) through (vii) of section 202(g)(1)(A) of the Social Security Act (42 U.S.C 402 (g)(1)(A)) is not authorized for the demonstration project.

The Department will not adopt the DHHS funding structure for the JOBS Program. JOBS matching rates, and JOBS target group and participation rate rules affecting Federal matching rates, will not apply to food stamp funding in project areas participating in the project. Additionally, the payment of supplemental funds made to prevent a net loss of cash income to a household—caused when a JOBS Program participant is required by the State agency to accept a job—will not be authorized during the project.

Although the Department is primarily interested in demonstration proposals which conform most closely to JOBS—the thrust of this entire project is toward true E&T/JOBS conformance—project areas wishing to waive specific requirements of the Food Stamp Act in order to test limited conformance may submit proposals. During the proposal evaluation process, greater emphasis will be placed on those proposals offering more extensive conformance. However, limited conformance proposals which promise to provide demonstration results of particular or significant interest to the E&T Program will receive careful consideration.

Waiver Exceptions.

Although the goal of this project is to enhance conformance between the two programs, certain regulatory requirements placed upon State agencies by the Department are critical to the successful nationwide operation of the E&T Program and may not be waived. These requirements are discussed below.

(1) State E&T Plans

A State agency's receipt of its E&T grant is contingent upon FNS approval of the State agency's E&T plan. Thus, the requirement that each State agency prepare and submit an E&T plan and provide regular updates must be met.

(2) Financial Reporting

Employment and training services in the participating project areas will continue to be funded through the E&T Program, in accordance with current funding procedures, and State agencies will remain responsible for financial reporting requirements.

(3) Program Monitoring

It is essential that State agencies continue to report consistent and reliable information to assure that its E&T program is accurately monitored, evaluated, and funded. Participating project areas must comply with E&T Program reporting requirements during the entire life of the project.

(4) Peformance Standards

State agencies must continue to satisfy applciable E&T Program performance standards.

(5) Quality Control

In ordrr to meet their responsibility for monitoring Food Stamp Program administration and operations, as required by the Food Stamp Act, participating project areas shall continue the quality control reveiw process during the project.

JTPA Coordination

Section 483 of the Social Security Act (42 U.S.C. 683) requires JOBS coordination with JTPA. Components of the State agency's JOBS plan related to job training and work preparation must be consistent with the coordination requirements of section 121 of JTPA. JTPA requires that AFDC recipients be served in at lease equal proportion to their numbers in the JTPA eligible population. The Department is especially interested in those demonstration proposals which emphasize the use JTPA programs. Coordination with education and training programs operated by ED is also encouraged.

Scope of Project

This notice will result in the negotiation of cooperative agreements with participating State agencies for the design, operation, and evaluation of the demonstration project. Cooperative agreements were chosen as the funding mechanism because the principal

purpose of the transaction is to assist State and local agencies in achieving conformity among employment and training programs and the Department envisions working closely with the participating State agencies in the development and oversight of the project. Participating State agencies must contribute funds, manpower, facilities, and/or other assets to the project.

Subject to the availability of funds, the Department has authorized a one-time allocation of $3 million in Fiscal Year (FY) 1992 to support the demonstrations and evaluations over the life of the project. The Department is not obligated to award the entire $3 million. The Department will limit the maximum amount awarded under any one cooperative agreement to $600,000. Participating State agencies shall be responsible for conducting the demonstrations and for securing independent evaluators to evaluate the project using evaluation measures established under the cooperative ageement.

It is important for prospective participants to understand that (1) no cost to the JOBS program shall be incurred as a result of this demonstration project, and (2) any increased expense arising as a result of implementing costlier JOBS components for E&T participants during the demonstration project may be paid from the State agency's regular E&T operating budget. However, other expenses incurred as a result of the operation of this demonstration project shall not be met by State agency E&T grants, participant reimbursement funds, or 50% matches of other administrative costs. Costs incurred during the project over and above the normal expenses budgeted by the participating project area for regular E&T program operation—as detailed in its State E&T Plan—are to be met with cooperative agreement funds made available for the demonstrations and with State funds. For example, child care reimbursements up to $160 per month per child, and transportation costs up to $25 per month per person, are to be paid from the project area's normal E&T operating budget. Any costs above those amounts incurred as a result of conforming to JOBS shall be paid from the project area's cooperative agreement funds and/or from State funds not earmarked for regular E&T operation. The exact ratio between cooperative agreement funds and State funds will be determined during negotiations with State agencies. State agencies with project areas submitting demonstration proposals shall attach to the proposal, as an addendum, a request for modification of its State plan relating to the demonstration. The modification request shall contain information about anticipated changes in the participating project area's E&T Program, including different components, increased reimbursements and administrative expenses etc., and the expected cost of these changes versus the normal operating costs of the E&T Program.

The Department is currently conducting an evaluation of E&T operations and funding involving 15 E&T programs nationwide. Project areas involved in this study are not eligible to participate in the E&T/JOBS Conformance Demonstration Project because we believe that such participation will affect the results of the study, and/or, that the study will affect the outcome of the demonstration.

After selecting the project participants, FNS will provide technical assistance to each project area through an independent contractor. Project operators and/or their evaluators will have access to the contractor on an as-needed basis to obtain assistance in evaluating their demonstrations. The contractor will also synthesize the individual evaluation reports into one overall evaluation document. The purpose of this technical assistance is to ensure the continuity and realibility of evaluation information collected from all project participants. It is intended to supplement—not replace—the required independent evaluations secured with cooperative agreement funds.

Public Comment

Those project areas selected to participate in this conformance demonstration must make their proposals available to the general public in order to provide adequate notice of potential changes in its E&T Program.

Demonstration Proposal Contents

Prospective participants shall submit a demonstration proposal containing specific information regarding their planned project. Applicants should include in their proposals any additional information which they feel would enhance their prospects for approval. Each demonstration proposal must contain the following:

(1) Conformance Guarantee

Conformance with JOBS requirements will mean significant variation from E&T procedures, with major deviations possibly occurring in such areas as participation criteria, the provision of child care, and sanctions for nonparticipation. Proposals must contain the applicant project area's guarantee that, with the exceptions noted above, its demonstration will meet the requirements of section 402 (a)(19) and (g) (42 U.S.C. 36002 (a)(19) and (g)) (but not including the provision of transitional child care) and sections 481 through 487 of the Social Security Act (42 U.S.C. 681–687). Each reference to 'aid to families with dependent children' in these sections shall be considered a reference to 'food stamps' for purposes of the demonstration. As previously explained, limited conformance proposals will be considered. However, applicants submitting such proposals must cite the barriers they face which prevent them from guaranteeing full conformance. The provisions of the Food Stamp Act affecting the rights of recipients may be waived to the extent necessary to conform to the provisions of these sections. Following is a brief description of the contents of section 402(a)(19) and 402(g) (42 U.S.C. 602 (a)(19) and (g)), including comparisons and contrasts with existing E&T requirements.

(a) Section 402(a)(19) (42 U.S.C. 602(a)(19)) contains State plan requirements for operation of the JOBS Program:

Mandatory participation. JOBS Program participation is mandatory—State resources permitting—for all non-exempt AFDC recipients living in an area covered by the JOBS Program for whom child care is guaranteed by the State agency.

Under section 6(d) (7 U.S.C. 2015(d)) of the Food Stamp Act, the Food Stamp Program requires all nonexempt, able-bodied recipients to register for employment as a condition of eligibility for participation. The State agency then screens each work registrant for potential participation in its E&T program.

Priority participation for volunteers. In the E&T Program, State agencies may allow individuals exempt from work registration or E&T requirements to participate as volunteers. In the JOBS Program, a State agency may allow voluntary participation—of both exempt and nonexempt individuals—so long as such participation does not prevent the State agency from expending 55 percent of its funds on certain specific target groups. Within these target groups, however, the State agency must give consideration to volunteers.

Exemption criteria. As with mandatory participation requirements, there is a two-tiered system of exemptions for work registered/E&T participants in the Food Stamp Program. Generally, JOBS Program and food

stamp work registration exemptions are similar. However, State agencies, in their E&T plans, can request approval of specific exemptions for individuals and categories of individuals for whom E&T requirements would be impracticable. If their State plans do not contain such exemptions, which would more closely conform the two programs, participating project areas must exclude certain individuals from their demonstration who may be currently participating in its E&T Program. These individuals include persons who reside in such remote locations that effective participation is precluded and women in their second or third trimester of pregnancy.

Conversely, because of differing participation requirements, certain individuals now exempt from participation in a project area's E&T Program may be required to participate in the demonstration. These individuals include: Persons receiving unemployment compensation and applicants for unemployment compensation; regular participant in a drug addiction or alcoholic treatment and rehabilitation program; and persons caring for a child under six, if the State agency guarantees child care and limits participation to no more than 20 hours per week. In addition, in two parent households, both parents may be required to participate if child care is guaranteed.

Mandatory education requirements. Depending on the requirements of their State JOBS plan, participating project areas must require custodial parents who have not reached 20 years of age, have not completed a high school education or its equivalent, and are not otherwise exempt, to pursue a high school education or education designed to qualify persons for a high school equivalency certificate. Participating project areas must assign individuals 20 years of age or older who have not earned a high school diploma or its equivalent to an education component unless the individual demonstrates a basic literacy level or the individual's long-term employment goal does not require a high school diploma.

Self-initiated education or training. Depending on the restrictions placed on postsecondary education or training by their State agency's JOBS plan, participating project areas must allow an individual who is already attending an institution of higher education or participating in a program of vocational or technical training at least part time to continue to attend, as long as the individual meets criteria established in the JOBS regulations and in State agency guidelines. The costs of day care, transportation, and other services necessary for attendance (as determined by the State agency) which exceed the allowable amounts for E&T participant reimbursements must be met by cooperative agreement funds or State funds, as explained previously.

Sanctions. Participating project areas must enforce JOBS Program sanctions during the demonstration. Unlike E&T program sanctions which are limited to a maximum of two months, and which affect the entire household if the noncompliant individual is the head of household, JOBS Program sanctions are imposed on the noncompliant individual only, with the severity of the sanction dependent upon the number of times the individual fails to comply. The maximum JOBS sanction is six months, or until the sanction is cured, whichever is longer. A complete description of the JOBS sanctioning process is provided at a later point in this notice.

Job acceptance. A JOBS Program participant is required to accept a job only if the State agency assures that the participant's household experiences no net loss of cash income resulting from acceptance of the job. State agencies are authorized to issue supplemental payments to the JOBS household in order to prevent such a net loss. An E&T Program participant is required to accept a job unless the wage is less than the higher of either the applicable State or Federal minimum wage.

For purposes of the demonstration, E&T participants shall have the option of refusing any job which represents a net loss of cash income to their household. However, as previously noted, the issuance of supplemental funds to E&T participants will not be authorized during the project.

(b) Section 402(g) (42 U.S.C. 602(g)) contains State plan requirements for JOBS Program supportive services. State agencies must provide such services, identified in their Supportive Services Plan, to allow eligible families to participate in employment, State approved education, or training. The demonstration project will operate in accordance with the participating State's Supportive Services plan, except for the provision of transitional child care, which is excluded from the project. The cost of supportive services in excess of the normal operating budget determined in the State's E&T plan must be met through cooperative agreement funds or State funds.

State agencies must also comply with sections 481 through 487 of the Social Security Act (42 U.S.C. 681–687). These sections are summarized below:

Section 481 (42 U.S.C. 681) states the purpose of JOBS and provides the definition of terms used.

Section 482 (42 U.S.C. 682) details the establishment and operation of the JOBS Program, including State plan requirements, assessment and employability plans for JOBS participants, the provision of program and employment information, services and activities provided under the program, dispute resolution procedures and special provisions relating to Indian tribes.

Note: Any work experience program conducted as part of the project must be conducted in conformity with subsection 482(f) (42 U.S.C. 682(f)), which contains provisions for community work experience programs.

Section 483 (42 U.S.C. 683) contains JOBS coordination requirements.

Section 484 (42 U.S.C. 684) lists the provisions generally applicable to program services.

Section 485 (42 U.S.C. 685) details State agency contracting authority.

Section 486 (42 U.S.C. 686) provides instructions for initial State evaluations of the JOBS Program.

Section 487 (42 U.S.C. 687) specifies the requirements for development of program performance standards.

(2) Scope

Proposals must contain an analysis of the scope of the demonstration. How many work registrants and volunteers will be affected by altered exemption criteria? Will the demonstration encompass the project area's entire E&T mandatory population or will participation be limited? If limited participation is planned, what segment of the population will be targeted for inclusion? Why? How many volunteer participants are anticipated?

(3) Cash Conversion Guarantee

Section 17(b)(3)(D) of the Food Stamp Act (7 U.S.C. 2026(b)(3)(D)) specifies that participation in a training activity where food stamp benefits are converted to cash shall occur only with the consent of the participant. The Department interprets this to mean wage subsidy programs. At this time, the Department is not interested in pursuing programs which convert food stamp benefits to cash in exchange for participation in a work program, and does not anticipate approving proposals in this area.

(4) Work Plan

Demonstration proposals must incorporate a detailed work plan, including the timetable for

implementation, the length of operation, and the time period allotted for evaluation.

(5) Staffing

The proposal must contain information about the E&T staff who will conduct the demonstration: The number and qualifications of front line staff members, administrative support personnel and management; staff experience with JOBS; the amount and type of training anticipated in order to prepare staff for the demonstration.

(6) Evaluation

FNS's major evaluation goals are to obtain information on the kind and extent of coordination between E&T, JOBS, JTPA, and other employment assistance activities undertaken by the demonstrations, to determine whether service to participants has improved as a result of this coordination, and to discover any unanticipated barriers to conformance. The proposal must contain the State agency's methodology for evaluating its demonstration; its plans for contracting for an independent evaluation of its demonstration; and the anticipated cost of evaluation. Additionally, the proposal must contain a description of services to participants which will be made available during the demonstration.

Criteria for Evaluating Demonstration Proposals

FNS will evaluate each proposal using a two-step process. First, the technical aspects will be evaluated by a Technical Review Panel. The Panel will evaluate the technical merit of each proposal according to the evaluation criteria listed below (with relative weights shown in parentheses). Panel members will evaluate each proposal independently and assign it a numerical score for each evaluation criterion. The Panel will average the scores assigned to each proposal and rank the proposals on their technical merit according to their mean scores. Based on this technical review, the Panel will recommend a competitive range for proposals. Competitive range is defined as all proposals with a reasonable chance of being selected for negotiation of a cooperative agreement under the terms of this notice. FNS may conduct negotiations with applicants in the competitive range, and after negotiations, may ask for "best and final offers." FNS does, however, reserve the right to go into an agreement with the applicant based on the original proposal and its evaluation. Therefore, proposals submitted in response to this notice should be on the most favorable terms from both technical and cost standpoints.

Second, FNS will consider the proposed costs associated with each proposal in the competitive range. The cost will be reviewed independently from the technical evaluation.

FNS will give the technical merit of proposals primary consideration over cost, which will serve as tiebreaker when decisions must be made among proposals that are similar or equal in technical merit. Awards will be made in such situations to those applicants whose offers are most financially advantageous to FNS.

Technical Evaluation Criteria

The following criteria will be used in the technical evaluation of proposals submitted in response to this notice. The weight of each criterion is given in parentheses. Maximum possible score is 100 points. Although not to be considered as weighted criteria in the selection process, emphasis will be placed on representative project areas and on close JOBS conformance, as previously noted.

(1) Potential for Program Improvement

Does the proposal appear to have the potential to make a significant contribution, as determined by the Technical Review Panel, to improving the effectiveness of the E&T Program. Is it likely to provide results which could improve the coordination among the E&T Program, the JOBS Program, JTPA, and other Federal training programs? How fully does the proposal merge E&T into JOBS? What promise does it hold for improving recipient service? (30 Points)

(2) The Proposal

Is the proposal well organized and complete? Does it present the goals and objectives of the proposed demonstration clearly? Are the demonstration activities well thought out? Have agreements been entered into with cooperative agencies? Is the reporting of demonstration progress and activities adequate? Is the schedule realistic? (20 Points)

(3) Staffing

Does the proposed demonstration staff have sufficient skill and experience to conduct the proposed demonstration? Are sufficient staff resources allocated to conduct the work? Does the management plan allow for satisfactory control of task performance and response to problems that may arise during the course of the study? (20 Points)

(4) The Evaluation Plan

Is the evaluation plan well defined? Are specific research questions to be addressed included in the proposal along with their related evaluation methods? Are these research questions good ones—are they capable of extracting significant information from the data collected during the demonstration? Are data collection and analysis plans included? Does the State agency's criteria for contracting an independent evaluator appear sufficient? (20 Points)

(5) Level of Resource Contribution

Has the applicant proposed a contribution of resources—including staff, facilities, funds, and evaluation? (10 Points)

Following is a description and comparison of the Food Stamp E&T Program and the AFDC JOBS Program.

The E&T Program

On December 31, 1986 the Department published in the **Federal Register** (51 FR 47378) the final rules implementing the Food Stamp E&T Program. The Program has been in operation since April 1987, providing E&T services to able-bodied, nonexempt food stamp recipients and selected volunteers. Comparatively low funding levels and the need to serve a large population impelled the E&T Program to evolve into broad-based, relatively inexpensive treatments, aimed at involving participants in work-related activities which lead to paid employment and a decreased dependency on assistance programs. All States are required to operate the E&T Program. They have the flexibility to do so in a manner best suited to their unique situation, subject to approval by the Secretary of Agriculture.

Each State agency must include one or more of the following components in its program: Job search, job search training, workfare, education, or any other approved program designed to improve the employability of participants through actual work experience and/or training.

Participation

The State agency determines the number of components to which each E&T participant will be assigned. The State agency also determines the number of months the individual will be required to participate in a component, unless the component is job search. Participation in a job search component is statutorily limited to an initial period of eight weeks from the time a food stamp application is filed and eight weeks in each 12 month period

following the initial eight week period. Mandatory participation in any work component cannot exceed the number of hours equal to the value of the household's food stamp allotment divided by the higher of the applicable State or Federal minimum wage. Total hours in any component cannot exceed 120 hours a month.

Under section 6(d) of the Food Stamp Act (7 U.S.C. 2015(d)) food stamp recipients are exempt from E&T if they are:

—Under age 16 or age 60 and above;
—Physically or mentally unfit;
—Age 16 or 17 and not the head of a household and attending school at least part time or enrolled in an employment training program;
–Subject to an complying with the work requirements of title IV of the Social Security Act (42 U.S.C. 602);
—A parent or other household member responsible for the care of a dependent child under 6 or someone who is incapacitated;
—A person receiving unemployment compensation or an applicant for unemployment compensation who is complying with the local employment office's work requirements;
—A regular participant in a drug addiction or alcoholic treatment and rehabilitation program;
—Employed at least 30 hours per week or receiving weekly wages equal to the Federal minimum wage multiplied by 30 hours;
—Students in compliance with food stamp eligibility rules which apply to them.

The State agency may exempt, with prior approval of the Secretary, otherwise mandatory individuals and categories of individuals whose participation in E&T activities would be impracticable; persons whose participation in the Food Stamp Program is not expected to exceed 30 days; and persons who do not commence an assigned E&T component and are determined to have good cause for not participating, if that good cause will last for 60 days or longer (7 U.S.C. 2015(d)(4)(D).

Both exempt and mandatory individuals are allowed to volunteer to participate in E&T activities. State agencies are encouraged, to the extent possible, to permit volunteers to participate in any E&T activity it offers.

Mandatory individuals who fail to compy with E&T requirements are sanctioned—removed from the food stamp grant—for two months or until the individual complies with E&T requirements, whichever is shorter (7 U.S.C. 2015(d)(1)(ii)). If the individual is head of the household (the household member who was the greatest source of earned income in the two months prior to the month of noncompliance), the entire household is sanctioned. Prior to imposing a sanction the State agency must initiate approved conciliation procedures, which include determining if the individual had good cause for noncompliance and attempting to resolve any disputes concerning noncompliance, and the State agency must provide the opportunity for a fair hearing if the dispute cannot be resolved.

Funding

The Department provides financial support to each State agency to operate its E&T Program. This support is in three forms: A 100 percent grant based on the size of the State's food stamp work registrant population and on E&T performance by the State; a 50 percent match of State funds for additional program costs; and a 50 percent match of State reimbursements to participants who incur expenses—including dependent care—while fulfilling an E&T requirement. For transportation and similar work, training, or education related expenses, a maximum State agency reimbursement of $25 per person per month is matched at the 50 percent rate. State agencies may reimburse amounts over $25 but do not receive Federal matching funds. For dependent care expenses, a maximum State agency reimbursement of $160 per dependent per month is matched at the 50 percent rate.

Reporting Requirements

Each State agency is required to submit a quarterly report no later than 45 days after the end of each quarter. This report must contain the number of the State's new work registrants, work registrants who are exempt from E&T participation, volunteers, participants who commence a component, and the number of NOAAs issued. On its first quarterly report, the State agency must include the number of its food stamp recipients who are work registered as of October of the year. On the final quarterly report, the State agency must identify the total number of individuals exempted, the reasons for the exemptions, and the total number of participants in each component of its E&T Program.

In FY 1992 the Secretary is authorized to distribute $75 million in 100 percent funds. In FY 1991 the Department distributed $50.4 million in 50 percent matching funds, and $16.1 million in participant reimbursements. Approximately 1.6 million food stamp recipients participated in E&T in FY 1991.

The JOBS Program

On October 13, 1989 DHHS published in the **Federal Register** (54 FR 42146) final rules to implement titles II and III of the Family Support Act of 1988 (Pub. L. 100–485).

Title II (42 U.S.C. 602) established the JOBS Program to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence. The JOBS Program replaces, consolidates, and expands current authority for welfare education, training, and work programs contained in title IV–A (AFDC) and title IV–C (Work Incentive (WIN) and WIN Demonstration Programs) of the Social Security Act.

Title III (42 U.S.C. 602) of the Family Support Act provides for child care and other services in support of employment, education, and training activities.

All States were required to implement the JOBS Program by October 1, 1990, and to make it available on a statewide basis, where feasible, by October 1, 1992.

Each State agency must offer four mandatory components: education, job readiness, job skills training, and job development. Each State agency must also offer two of the following optional components: Group/individual job search, on-the-job training, work supplementation, or community work experience.

Participation

To the extent possible, a custodial parent—the parent who lives with the child—under age 20, who has not completed high school, must participate in educational activities unless otherwise exempt. Custodial parents 18 and 19 may participate in training or work activities instead of educational activities if they fail to make good progress in completing the educational activities or if their participation in educational activities is deemed inappropriate.

Individuals 20 years of age or older who have not earned a high school diploma or its equivalent must be assigned to an education component unless the individual demonstrates a basic literacy level or the individual's long-term employment goal does not require a high school diploma.

The State agency may refer participants to post-secondary education provided the education is determined to be necessary to meet the individual's employment goal and the

employment is in a recognized occupation. The State agency may also allow participants who are already pursuing a course of education or training at least half-time to continue with the course of study.

Any other JOBS activities in which the student participates may not be permitted to interfere with the education or training activity.

Prior to assigning an individual to a component, the State agency must assess the individual's education, work experience, skills, and family circumstances. On the basis of this assessment, and with input from the participant, an employability plan is developed. This plan must contain an employment goal for the participant, describe child care and other supportive services to be provided, describe JOBS activities that will be undertaken by the participant to achieve the employment goal, and describe any other needs of the family that might be met by JOBS.

Participants in the JOBS Program do not have to meet a certain level of effort as is required in the E&T Program. With the exception of statutory participation requirements in Unemployed Parent cases—which will not go into effect until FY 1994—a participant's level of effort is determined as part of his/her employability plan. Participants in educational activities or training programs must make "good" and "satisfactory" progress in order to continue in the component activity.

The JOBS Program requires that each State agency target those individuals who are most in need of assistance to avoid long-term welfare dependency. This targeted population consists of individuals who are currently receiving or have received AFDC for 36 of the previous 60 months; custodial parents under age 24 who have not completed or are not enrolled in high school or who have had little or no work experience in the preceding year; and individuals whose youngest child is within two years of being ineligible for AFDC due to age.

The exemptions for JOBS are generally the same as for E&T. However, for JOBS the age limit for providing care for a child is under age 3, or, at the State's option, under age 1. Furthermore, a recipient who is providing care for a child under age 6 may be required to participate for no more than 20 hours a week if the State agency guarantees child care. Recipients who reside in a remote area, pregnant women in their second and third trimester, and VISTA volunteers are statutorily exempt from participation in the JOBS Program.

The second parent in an Unemployed Parent household is not exempt because the other parent is a mandatory participant in the JOBS Program. Exemption is allowed only if she/he meets another exemption criterion. Thus, the second parent may be exempt for the care of a young child.

State agencies must allow both exempt and mandatory individuals to participate in the JOBS Program on a voluntary basis, to the extent that the program is available and resources otherwise permit, with first consideration going to volunteers belonging to a targeted population.

Mandatory JOBS individuals are sanctioned on the basis of how many times they fail to comply: For the first occurrence, the noncompliant individual is removed from the AFDC grant until the failure to comply ceases. For the second occurence, the individual is sanctioned until the failure to comply ceases, or three (3) months, whichever is longer. For any subsequent failure to comply, the individual is sanctioned until the failure to comply ceases, or six (6) months, whichever is longer. Prior to imposing the sanction the State agency must establish whether or not good cause for the noncompliance existed, attempt to resolve disputes related to an individual's noncompliance, and provide the opportunity for a fair hearing if the dispute cannot be resolved.

Funding

Each State agency's maximum annual funding level for its JOBS Program is established by combining an amount equal to its WIN/WIN Demonstration allotment for FY 1987 with an amount based on its average monthly number of adult recipients. From the State agency's total annual entitlement, Federal Financial Participation (FFP) is available at a rate of 90 percent for an amount equal to its FY 87 WIN/WIN Demonstration allotment level. For the balance of the State agency's entitlement, FFP is available at the higher of its Medicaid matching rate or 60 percent for personnel costs (salaries and benefits) for full-time staff working full-time in any capacity in the JOBS Program, and at 50 percent for other, indirect personnel costs.

Those State agencies which do not expend at least 55 percent of their JOBS funds on the hard-to-serve targeted population receive FFP of 50 percent, rather than the enhanced rates described.

Each State agency must guarantee child care for a dependent child who is under age 13 or physically or mentally incapable of self care to the extent that the child care is necessary to permit a participant to accept employment or remain employed or to engage in an approved education or training activity under JOBS. The State agency must reimburse participants, or use an income disregard, for the actual cost of child care up to the statewide limit established by the State IV–A agency in its Supportive Services Plan which is at least $200 monthly for childern under two, and $175 monthly for childern two and over. FFP for child care is at the Medicaid matching rate and is included in the title IV–A general program entitlement except for Puerto Rico, Guam, the Virgin Islands, and American Samoa. In those areas the FFP rate is 75 percent and is included in the annual JOBS limit of entitlement.

State agencies can provide transportation or reimburse individuals for transportation and all other costs related to participation in the JOBS Program. FFP is available at the 50 percent matching rate and is subject to the JOBS limit of entitlement.

To receive the enchanced FFP for a fiscal year, each State must meet a specified participation level in the preceding year: 7 percent in FY 1991, 11 percent in FY 1992 and FY 1993, 15 percent in FY 1994, and 20 percent in FY 1995. Failure to meet the required level will result in a FFP rate of 50 percent.

Beginning in FY 1994 States must also achieve a specified participation level in their Unemployed Parent cases. Failure to achieve that level will result in a FFP of 50 percent.

Reporting Requirements

State agencies must maintain an individual case record for each JOBS participant, and provide to DHHS a monthly sample of specified case record data. The sample must be transmitted to DHHS electronically, no later than 45 days after the end of the month in which the sample is taken.

For the purpose of determining participation rates, the State agency must also submit a quarterly report of the aggregate number of individuals required to participate in the JOBS Program.

For the purpose of calculating the amount of funds spent on target groups, and determining the amounts spent per family by component and activity, the State agency must submit a yearly report which may consist of a table of its average total JOBS cost per participant per month of participation for the previous fiscal year.

For FY 1991, $1 billion was made available for the JOBS Program. DHHS has not yet obtained concrete data on the number of JOBS participants. One estimate is that JOBS would serve

approximately 1.56 million participants in FY 1991.

Dated: March 23, 1992.

Betty Jo Nelsen,

Administrator.

[FR Doc. 92-7105 Filed 3-26-92; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-502]

Final Results of Antidumping Duty Administrative Review: Certain Iron Construction Castings From the People's Republic of China

AGENCY: International Trade Administration, Import Administration, Commerce.

EFFECTIVE DATE: March 27, 1992.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Antidumping Investigations, Import Adminstration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2613.

Final Results

Background

On August 2, 1991, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of this administrative review of the antidumping duty order on certain iron construction castings from the PRC. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

One exporter, Guangdong Metals and Minerals Import and Export Corporation (Minmetals Guangdong), was examined during this review. We verified this company's data during the period December 2-13, 1991. None of the other named exporters responded to the Department's questionnaire. The period of review (POR) is May 1, 1989 through April 30, 1990.

Scope of Review

Imports covered by this review are shipments of certain iron construction castings, limited to: Manhole covers, rings and frames; catch basin grates and frames; cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems; and valve, service and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters. These articles must be of cast iron, not alloyed, and not malleable. Until January 1, 1989, iron construction castings were classifiable under items 657.0950 and 657.0990 of the Tariff Schedules of the United States Annotated (TSUSA). Certain iron construction casting are currently classifiable under subheadings 7325.10.00.00 and 7325.10.00.50 of the Harmonized Tariff Schedule (HTS). Although the HTS and TSUSA subheadings are provided for convenience and customs purpose, our written description of the scope of this proceeding is dispositive.

Use of Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available is appropriate for entries of the subject merchandise from exporters who did not respond to the Department's questionnaire.

In deciding what to use as best information available, § 353.37(b) of the Department's regulations provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is best information available. When a company refuses to provide the information requested in a timely manner, or otherwise significantly impedes the Department's review, the Department will normally assign to that company the highest of: (a) The highest rate for any company in any previous review or the originial investigation; or (b) the highest margin for any respondent for the current review. In this case, the highest margin is the margin we have calculated for Minmetals Guangdong in the current review. Accordingly, we will assign to all other exporters for the PRC, as best information available, the margin we calculated for Minmetals Guangdong.

United States Price

We based the United States Price on purchase methodology as set forth in our preliminary results (56 FR 37074, August 2, 1991).

Foreign Market Value

We calculated foreign market value (FMV) as set forth in our preliminary results with the following exception. Where possible, we valued the factors of production using information obtained by the U.S. consulate in Calcutta, India, from an Indian manufacturer of castings. We valued items for which the Consulate was unable to obtain values based on average import prices into India from market-economy countries, which we derived from the government of India's offical imports statistics. In the case of a relatively minor material, bentonite (used as a binder in the foundry sand), the value we calculated from the Indian import statistics was thirty-six times higher than the price in Pakistan as reported by the U.S.C Embassy there. Also, the quantities of bentonite imported into India were quite low—26 metric tons for an entire year, the largest shipment no larger than 6 metric tons. According to information from the U.S. Department of the Interior, Bureau of Mines, the three predominant uses of bentonite are for pelletizing iron ore, as a binder in foundry sand, and drilling mud. The Burear of Mines advised that the quantities imported into India were insufficient for any of these uses and therefore the bentonite imported into India must be of a special grade not suitable for the production of iron castings. We therefore valued bentonite based on price in Pakistan provided by the U.S. Embassy.

We were unable to develop sufficient information in India concerning factory overhead or packing expense. We therefore valued these two items based on information gathered by the U.S. Embassy in Pakistan.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from petitioner, importers and Minmetals Guangdong.

Comment 1: Minmetals Guangdong and five importers argue that the values for pig iron and scrap iron not be based upon the prices reported by an Indian producer. They contend that Indian pig iron and scrap iron prices are set by the Indian government rather than by free market conditions. They further conter.d that their prices have not been verified. These parties suggest as an alternative that we value pig iron and scrap iron based on import prices into India using Indian government statistics.

Petitioner argues that the price reported by the Indian producer is probably market-driven because it is comparable to prices reported by producers in Pakistan and the Philippines (alternative surrogate countries). Petitioner submits that the price reported by the Indian producer is higher than the average import price because the reported price may be for a more expensive grade of pig iron, reflect a purchase of a relatively small quantity, and include costs (duty, freight, taxes, etc.) incurred by an importer to get the pig iron to its foundry door. Petitioner further argues that if we

do reject the Indian price, we should value pig iron based on a price reported by a Pakistani producer rather than Indian import statistics.

Department's Position: We continue to use the Indian price to value pig iron and scrap iron. To value a NME producer's factor of production, section 773(c)(4) of the Act requires that the Department utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries. The Department has interpreted this provision to mean that only prices or costs of factors produced in a market-economy country can be used for factor evaluation purposes (see, *e.g.*, Final Determination of Sales at Less Than Fair Value: Refined Antimony Trioxide from the PRC (57 FR 6801, February 28, 1992)] ("Antimony"). We recognize the Department's responsibility to "avoid using any prices which it has reason to believe or suspect may be dumped or subsidized prices." H.R. Rep. No. 576, 100th Cong., 2d Sess. 590–91 (1988). The Department has consistently refused to base FMV upon surrogate countries' prices for exports if those exports may benefit from subsidies or are being dumped. (See *Technoimportexport* v. *United States* Slip Op. 92–4, at 9 (CIT January 23, 1992). The situation in this case is clearly different, however. There is no foundation in the statute, regulations, or in Departmental practice for rejecting domestic prices in a market economy on the basis that the government somehow influences those prices. (*See* Final Determination of Sales at Less Than Fair Value: Generic Cephalexin Capsules From Canada, 54 FR 26820, 26822 (1989)). Given that we have information on the price for pig iron and scrap iron by an Indian castings producer, we have no reason to consider alternative valuation sources.

Comment 2: Respondents argue that to value inland freight, the Department should convert per-kilometer freight rates from flat to "zone" rates supplied by our diplomatic posts in India by dividing the zone rates by the maximum distance to which they apply. Petitioner argues that since the zone method is apparently used in India, we should continue to use the zone rates to value inland freight.

Department's Position: We agree with petitioner. Indian freight rates were quoted on a zone basis. There is no evidence that realistic per-kilometer rates could be calculated by dividing the zone rates by the maximum number of kilometers to which each zone rate applies.

Comment 3: Respondent argues we should revise downward the percentage we add for factory overhead costs because we calculated the percentage from data supplied by a large Pakistani foundry with a capacity much higher than the Chinese foundries under review.

Petitioner argues that the Chinese foundries are more comparable to the large foundries in Pakistan than to the small ones. Petitioner further argues that the factory overhead rate we calculated, because it is based on detailed cost data, is more accurate than the data available pertaining to small foundries.

Department's Position: Our embassy in Pakistan provided factory overhead perecentage ranges for large and small foundries, as well as a detailed cost breakdown for a large foundry. We used the cost-breakdown to calculate the percentage for the preliminary results. The percentage we calculated, 23.75 percent, was in the range the embassy reported for small foundries.

We have used the same methodology for the final results because it is based on actual costs, rather than estimates.

Comment 4: Respondent argues that the Department should use the statutory minimum profit rather than the percentage reported by the Indian foundry. Respondent bases it argument on the assertion that the Indian producer's profit percentage bears no relationship to either the actual costs incurred by Chinese casting producers, or to the surrogate prices (from a mixture of sources) used by the Department to value Chinese factors of production.

Petitioner counters that the statute requires that the Department value profit is a surrogate country.

Department's Position: We agree with petitioner. Section 773(c)(1) of the Act, which references section 773(e)(1)(B), requires that we value profit in a surrogate country, provided that the surrogate's profit percentage exceeds the statutory minimum of eight percent. In this instance, the surrogate producer's profit was reported to be 10 percent of total costs. We used this figure since it exceeded the statutory minimum.

Comment 5: A sixth importer argues that the "All Others" rate should not apply to China National Machinery Import & Export Coropration (Machimpex), Liaoning Branch, because this branch was not named in the petitioner's review request or the Department's initiation notice for this review. Therefore, the importer argues that entries from this country sould be liquidated at its current deposit rate of 11.66 percent.

Petitioner argues that they named China National Machinery Import & Export Corporation in their review request with the intent that all of the company's branches be included within the scope of the review.

Department's Position: We have continued to assign this company the "All Others" rate. In publishing initiations of administrative review, the Department does not follow a policy of listing every branch company. While we attempt to include the names of headquarters companies, the Department's failure to list Machimpex in its July 6, 1990, initiation notice (55 FR 27860) was an oversight. This omission constituted harmless error, however. The company had notice that its exports were subject to review under the antidumping order. As with other reviews, the petitioners specifically requested that Machimpex be included within this review period. Therefore, the importer is incorrect in claiming that any portion of Machimpex's exports should be liquidated at the deposit rate. See 19 CFR 353.22(e). The Department listed the company in both notices of initiation for the previous two reviews. More importantly, in the current review, we sent Machimpex a questionnaire without designating a particular branch. In a letter dated August 17, 1991, that company stated that "all of its former branches were now independent entities," and that it "had forwarded the questionnaire to Liaoning Machinery & Export Corporation" (formerly China National Machinery Import & Export Corporation, Liaoning Branch). Therefore, we consider this company to be non-cooperative and deserving of the BIA rate in accordance with section 776(c) of the Act.

Comment 6: Petitioner argues that the Department should calculate margins on a foundry-specific basis because (1) the foundries are apparently independent from the exporter, (2) the foundries are aware of the destination of the merchandise they make, and (3) each foundry negotiates separate prices with the exporter.

Department's Position: In the preliminary results, we calculated a single FMV for each foundry. We then weight-averaged the FMVs to arrive at a single FMV which we compared with each of the exporter's (Minmetals Guangdong) sales to the United States. The record contains no U.S. dollar-denominated price data on castings shipped from the factories to Minmetals Guangdong.

Since United States price is based on Minmetals Guangdong's export prices, foreign market value should be based on all castings sourced by Minmetals Guangdong for export to the United States (*i.e.*, foreign market value should

reflect input utilization rates for all factories that supplied Minmetals).

Comment 7: Petitioner argues that the Department should use as BIA for the non-responding firms the highest margin found for any one sale in this review, or, at a minimum, the highest average margin found for any of the four foundries. Petitioner's argument is based on the assertion that the companies failed to respond because, based on the preliminary results of previous reviews, they anticipated their calculated margins would be higher than the margin of the sole responding company, Minmetals Guangdong. Therefore, petitioner argues, to use the margin that we calculate for Minmetals Guangdong is insufficiently punitive.

Department's Position: We consider these non-responding parties to be non-cooperative. Therefore, we have followed our normal BIA policy for non-cooperative parties which states that we will generally assign the higher of: (a) The highest rate for any firm for any previous review or the original less-than-fair-value investigation, or (b) the highest rate found for any firm in the current review. See, Final Results of Antidumping Duty Administrative and Partial Termination: Roller Chain, Other than Bicycle, From Japan (57 FR 6808, February 28, 1992).

Comment 8: Petitioner argues that the Department should value the factors of production by using the average of the Indian and Pakistani values. Petitioner prefers such an approach to the methodology the Department employed for the preliminary results in which we relied on Indian values as our first choice with the resort to Pakistani values only for items for which Indian values were not available.

Department's Position: The July 24, 1991, memorandum in the public file from Mark P. Lunn to Michael Ready indicates that Indian and Pakistan are both comparable to the PRC in terms of GNP per capital, GNP per capita growth rate, and the distribution of labor between agriculture and industry. India is, however, slightly more comparable in terms of per capita GNP and the distribution of labor. It is the Department's preference to value factors in one surrogate country when possible. (See, Antimony.) Therefore, we have valued the PRC factors of production in India when possible. As stated previously, with respect to bentonite, the data concerning India could not be relied upon and we valued the factor of production in Pakistan. Likewise, for packing and factory overhead, we were unable to find values for India and we used data from Pakistan obtained from our diplomatic post.

Comment 9: Petitioner argues that for items valued using prices gathered by the American Consulate in Calcutta, no inflation adjustment should be made due to ambiguity as to the effective date of prices submitted by the American consulate in Calcutta.

Department's Position: We have continued to make the inflation adjustment. We have confirmed with Calcutta that our information about the effective date of the prices in question was correct; therefore, our inflation adjustment was warranted.

Comment 10: Petitioner argues the Department used an incorrect value to calculate the cost for scrap steel based on data from the American embassy in Pakistan. Respondent argues we should continue to use the price from Pakistan but make deductions for drawback of customs duty and other taxes.

Department's Position: For the final results we have valued scrap steel based on the average import value into India, our primary surrogate country, according to the hierarchy stated in the Foreign Market Value section of this notice.

Comment 11: Petitioner argues the Department failed to value all direct materials used by the Chinese foundries. Specifically, petitioner argues we should consider limestone, clay powder, fluorite, bentonite, kaolin clay, graphite, and talcum powder as direct materials and assign them values. Respondent argues these items are indirect materials and should be considered factory overhead because they are not incorporated in the final product.

Department's Position: We agree with petitioner. In our preliminary results, we calculated a factory overhead rate based on a cost breakdown obtained from a castings producer located in Pakistan. In making that calculation, we treated the items in question as indirect materials. We have since learned that for purposes of the cost breakdown, the Pakistani producer considers these items direct materials.

Comment 12: Petitioner argues that the Department should reject the price for coke reported by the American Consulate in Calcutta because the price is unreasonably low, compared to the price in Pakistan and the United States.

Department's Position: For the preliminary results, we valued coke based on the price the American Consulate in Calcutta provided of 1,800 rupees per metric ton. As a result of petitioner's comment, we asked the consulate to confirm the accuracy of the price quote. In response, the consulate advised that the correct price was 1,100 rupees per metric ton.

In consideration of this information, we based the valuation of coke on the confirmed price of 1,100 Indian rupees.

Comment 13: Petitioner argues that the Department should make circumstance of sale adjustments for after-sale warehousing and credit costs.

Department's Position: In recent NME cases, we havre declined to make circumstance of sale adjustments. To make such an adjustment to FMV would require arbitrary divisions of surrogate country producers' expenses into amounts for direct, indirect, and other general and administrative expenses. See *e.g.*, DOC Position on Comment 21 in Antimony.

Comment 14: Petitioner argues that the Department should make an adjustment for bank charges and letter of credit charges.

Department's Position: No bank or letter of credit charges were reported by the respondent. Nor were any such charges found at verification. Therefore, no basis for making such an adjustment exists.

Comment 15: Petitioner argues that the price as shown in the sales listing for two observations disagrees with the price quoted in correspondence between Minmetals Guangdong and the customer.

Department's Position: We verified one of the two observations and found no discrepancy. We have no reason to doubt the accuracy of the price listed for the other observation. Also, the model number for the observations cited by petitioner is different than the model number to which the price quote applies. Therefore, we accept respondent's data as submitted for these observations.

Comment 16: Since the Department did not follow all of petitioner's many verification suggestions, petitioner contends that we should determine one consolidated rate for all exporters, rather than consider Minmetals Guangdong an independent entity.

Respondent argues that it is up to the Department and not the petitioner to determine the nature and extent of the verification. Respondent further argues Minmetals Guangdong established at the verification that the company possessed authority to sign export contracts without the approval of outside entities and that the company keeps the proceeds from its sales.

Department's Position: We agree with respondent that the Department determines the extent of verification. Nevertheless, we did address some of petitioner's verification concerns and found them without merit. Other suggestions were irrelevant with respect to the criteria for separate rates laid out

in our recent final determination regarding sparklers from the PRC (see, Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991)) in which we stated:

> We have determined that exporters in nonmarket economy countries are entitled to separate, company-specific margins when they can demonstrate an absence of central government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of central control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of central government control with respect to exports is based on two prerequisites: (1) Whether each exporter sets its own export prices independently of the government and other exporters; and (2) whether each exporter can keep the proceeds from its sales.

At the verification we found no restrictive stipulations associated with the company's business license. We also verified that the company keeps the proceeds from its sales. We found the proceeds were deposited into the respondent's account. Furthermore, we did not find any withdrawals that would indicate that any portion of the proceeds was transferred to a government agency. Minmetals Guangdong submitted customer correspondence as evidence of its ability to set its own prices. The evidence included correspondence showing negotiation of prices between Minmetals Guangdong and its customers.

We therefore determine that Minmetals has met the Sparklers criteria and qualifies for a separate rate

Comment 17: Petitioner argues that the Department should correct certain sales prices incorrectly overstated by Minmetals Guangdong.

Minmetals Guangdong advised that the overcharges were adjusted for by deductions on subsequent invoices. By examining the sales listing, petitioner also suggests that overcharging may have also occurred on two additional observations. Respondent has since confirmed that overcharging did occur in these additional observations.

Department's Position: We agree with petitioner and corrected these four observations for the final results. Of many observations checked at verification, only these four were incorrect.

Comment 18: Petitioner argues that the Department should include a factor for scrap wood for the Guangzhou factory because the verification revealed that the factory did use scrap wood to light the fire in the cupola and in the kitchen. Respondent claims it was unable to allocate scrap wood consumption between the cupola and the kitchen.

Department's Position: Since respondent did not allocate scrap wood consumption between uses, for the purpose of these final results we have allocated all scrap wood consumption to the cupola as best information available.

Comment 19: Petitioner argues that we should allocate the Guangzhou factory's consumption of asphalt and turpentine over the castings produced for export to the United States, rather than over total production. The argument is based on Minmetals Guangdong's statement at verification that asphalt and turpentine were applied only to the U.S. castings.

Department's Position: We agree. Since these materials were only used for production exported to the United States, the correct allocation methodology is to divide consumption by exports to the United States, rather than by total production.

Comment 20: Petitioner argues that the Department should adjust the Guangzhou factory's factors of production for labor hours, electricity, and factory overhead to account for production that was contracted out to other foundries. Respondent argues no adjustment is warranted because the contracted-out production was not included in the total production used to calculate the pen ton usage of labor and electricity.

Department's Position: We disagree with respondent. The verification documents indicate that the contracted-out quantity of castings was included in the total production figure. We disagree with petitioner's calculation methodology for making this adjustment, however, because it is based on extremely fragmentary data. Petitioner has imputed its adjustment factor based on only a single category of merchandise (merchandise delivered for export), and for a year-long period which overlaps but that does not coincide with the period of review. Since we lack the data to recalculate these factors, we used, as best information available, the highest factors for labor and electricity submitted by any of the four factories, for the Guangzhou factory also. With respect to petitioner's argument that we also increase the factory overhead costs (for indirect materials, indirect labor, and other factory assets), we do not value these items independently. Rather, we calculate a factory overhead percentage for a surrogate producer and apply that percentage to the sum of the NME producer's direct material, labor and energy costs. Increasing the Guangzhou factory's labor and electricity factors increases the base against which the factory overhead percentage is applied and therefore results in an increase in the amount added for factory overhead.

Comment 21: Petitioner argues that the Department should increase the electricity factor for the Guangzhou factory to include self-generated electricity. Respondent argues that no adjustment is warranted because the self-generated electricity was used only for lighting and not for production, and that the costs for self-generated electricity are included in factory overhead expense.

Department's Position: The matter of self-generated electricity for this factory was not addressed at verification. We therefore accept respondent's assertion that self-generated electricity was not used for production. As noted above, we based the electricity factor of production for this factory on best information available (the highest factor submitted for any other factory).

Comment 22: Petitioner argues we should revise the calculation of freight costs for pig iron and coke used by the Guangzhou factory.

Department's Position: We agree with respect to pig iron. With respect to coke, however, which we found to be supplied from a source 45 kilometers from the factory (instead of 15 kilometers which was reported in the questionnaire response), no revision is necessary because we used a freight rate for the preliminary results applicable to distances up to 50 kilometers.

Comment 23: Petitioner argues that the Department should increase factors of production for labor, electricity, and factory overhead for the Dongguan factory to account for production contracted out to other factories.

Department's Position: We agree with respect to labor and electricity. However, petitioner's recalculation is based on only a single month's production. Since data on contracted-out production is lacking for the entire period of review, we have based the labor and electricity factors for the Dongguan factory on the highest factors reported by any of the factories as best information otherwise available.

Comment 24: The petitioner argues that the Department should add to the constructed value for the Dongguan factory the cost for a bolt assembly included with model L–2286 which was not reported in the questionnaire response. Petitioner has provided U.S. market values for a brass bolt and

washer for purposes of making this adjustment. Respondent argues we should reject the U.S. prices put forward by petitioner because the prices are untimely under 19 CFR 353.31(a)(2), are unverified, and did not come from a public source. Respondent argues that the Department should independently obtain cost information for the bolt assembly.

Department's Position: We agree with respondent. We have valued these items based on average import prices into India, as calculated from official import statistics of the Indian government.

Comment 25: Petitioner argues that the Department should determine whether the Dongguan factory uses an exceptionally costly grade of pig iron. This argument is based on the fact that of the four factories, only Dongguan does not use ferrosilicon and ferromanganese in the production of castings. Dongguan factory personnel advised at verification that these items were not needed because the pig iron contains adequate amounts of silicon and manganese. Therefore, petitioner argues that Dongguan must use a different, more costly grade of pig iron which the Department must value accordingly. Respondent argues that the specified range for silicon and manganese content for the Chinese pig iron grade Z–18 is sufficiently wide so that no additional input of these elements is needed.

Department's Position: We disagree with petitioner. In requesting values for the PRC factors of production from our diplomatic posts in surrogate countries, we made clear the purpose for which we intended to use the requested information. We believe that the pig iron prices which the posts provided are for a grade of pig iron adequate to produce these castings.

Comment 26: Petitioner argues that the Department should add scrap wood, limestone, peralite, and talcum powder to the Shaoguan factory's list of raw material factors of production. These items were not included in the questionaire response. Respondent argues that the factors for peralite and talcum powder are so small (.8 KG. per MT and six KG per MT, respectively) that they would have no material effect on the calculation of foreign market value.

Department's Position: We agree with petitioner. For the final results we have valued each of these materials with the exception of peralite for which we were unable to find a value. We have determined that the omission of this minor material will not have any significant effect on these final results.

Comment 27: The petitioner argues that the Department should reject the electricity factor production submitted by the Shaoguan factory because the factory allocated electricity consumed to various products based on sales value.

Department's Position: We have accepted respondent's allocation methodology. The Shaoguan factory had only one electric meter and received a single bill for the entire factory. While a sales-value-based allocation is not as preferable as a direct allocation based on usage, we have accepted the methodology because there is no evidence that casting production is significantly more energy intensive than the factory's other products and Shaoguan did not have any records to allocate the costs on another basis.

Final Results of the Review

Based on our final analysis, we determine that the following weighted-average margins exist for the period May 1, 1989, through April 30, 1990:

Exporters	Margin (percent)
Guangdong Metal & Minerals Import & Export Corporation	92.74
All others	92.74

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided in section 751(a)(1) of the Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. These deposit requirements are effective for all shipments of certain iron construction castings from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and will remain in effect until the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: March 23, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92–7151 Filed 3–26–92; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Advanced Automotive Technology Conference

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open conference.

SUMMARY: An amendment, dated December 18, 1991, to the Stevenson-Wydler Innovation Act requires that the Secretary of Commerce, through the Under Secretary for Technology, convene a conference of domestic motor vehicle manufacturers, parts suppliers, Federal Laboratories, and motor vehicle users to explore ways in which cooperatively they can improve the competitiveness of the Untied States motor vehicle industry by developing new technologies which will enhance the safety and energy savings, and lessen the environmental impact, of domestic motor vehicles. Notice is hereby given that the specified conference will take place on May 5, 1992, from 8:30 a.m. to 5 p.m. Presentation topics will include: The technology needs and barriers of the automotive industry; technological innovations from the parts suppliers; capabilities and collaborative support from the Federal Laboratories; automotive market analysis from a technological viewpoint; and the Department of Commerce's Strategic Partnership Initiative.

DATES: The conference will be held on May 5, 1992, from 8:30 a.m. to 5 p.m.

ADDRESSES: The conference will be held in the Green Auditorium, Administration Building, National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Lori Phillips, Conference Coordinator, Public Affairs Division, National Institute of Standards and Technology, Administration Building, room A903, Gaithersburg, Maryland 20899, telelephone: (301) 975–4513.

Dated: March 22, 1992.

John W. Lyons,

Director.

[FR Doc. 92-7130 Filed 3-26-92; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Carlos A. Cruz Colón (Appellant) From an Objection by the Commonwealth of Puerto Rico Planning Board

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal and request for comments.

By letter dated August 26, 1991, Mr. Carlos A. Cruz Colón (Appellant) filed with the Secretary of Commerce (Secretary) a notice of appeal. The Appellant is appealing to the Secretary under section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA) and the Department's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the Commonwealth of Puerto Rico Planning Board (PRPB) to the Appellant's consistency certification that its proposal to construct an "L" shaped pier 36 feet by six feet and 30 feet by six feet, or, in the alternative, a boardwalk, in the Torrecilla Lagoon in Carolina, Puerto Rico, for which a U.S. Army Corps of Engineers permit must be obtained, is consistent with the PRPB's coastal zone management program.

The CZMA provides that a timely objection by a state (including Puerto Rico) to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). Section 307(c)(3) (A) or (B). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122.

The Appellant requests that the Secretary override the PRPB's consistency objections based on Ground I. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that: (1) The proposed activity furthers one or more of the national objectives or purposes contained in sections 302 or 303 of the CZMA, (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act, and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with the PRPB's coastal management program. 15 CFR 930.121.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within 30 days of the publication of this notice and should be sent to Ms. Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235. Copies of comments should also be sent to Ms. Patria G. Custodio, Chairperson, Puerto Rico Planning Board, Minillas Governmental Center, North Building, De Diego Avenue, Stop 22, P.O. Box 41119, San Juan, Perto Rico, 00940-1119.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the Commonwealth of Puerto Rico Planning Board and the Office of the Assistant General Counsel for Ocean Services, NOAA.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Margo Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 606-4200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: March 20, 1992.

Thomas A. Campbell,

General Counsel.

[FR Doc. 92-7091 Filed 3-26-92; 8:45 am]

BILLING CODE 3510-08-M

Intent To Grant Exclusive License

SUMMARY: The Government's undivided interest in a jointly owned invention described in U.S. Application No. 07/515,487, now U.S. Patent No. 5, 028,929, and entitled "Icing Hazard Detection for Aircraft," is available for licensing in accordance with 35 U.S.C. 207. Applications may be sent to John Raubitschek, Patent Counsel, Department of Commerce, room H-4610, Washington, DC 20230. His telephone number if (202) 377-5394.

If a satisfactory license application is not received within 3 months, NOAA intends to grant an exclusive license under its undivided interest to the other co-owner, the University Corporation for Atmospheric Research (UCAR) of Boulder, Colorado. The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. However, the license will not be granted if, within 3 months, NOAA receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

William H. Hooke,

Acting Chief Scientist, National Oceanic and Atmospheric Administration.

[FR Doc. 92-7097 Filed 3-26-92; 8:45 am]

BILLING CODE 3510-12-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of permits (P66G) and (P66I).

On February 11, 1992, notice was published in the **Federal Register** (57 FR 4990) that applications had been filed by the Alaska Department of Fish and Game, Division of Wildlife Conservation, P.O. Box 3-222, Juneau, AK 99802, for the following permits:

Permit No. 770 (P66G) authorizes, with certain conditions: (1) Up to 100 harbor seals (*Phoca vitulina*) and 50 spotted seals (*Phoca largha*) to be captured, restrained, blood sampled, flipper tagged, equipped with satellite-linked platform transmitter terminals (PTTs) and/or VHF telemetry and released; (2) the same activities to be conducted on an additional 100 harbor seals and 50 spotted seals, except that this control group will not be electronically tagged; (3) up to ten (10) harbor seals and five (5) spotted seals to be unintentionally killed during the conduct of the authorized research activities; and (4) up to 500 harbor seals and 500 spotted seals to be unintentionally harassed while conducting the authorized activities. These acitvities will occur over a four-year period.

Permit No. 771 (P66I) authorizes, with certain conditions: (1) Up to 50 sea lions to be chemically immobilized, blood sampled, measured, weighed, tooth extracted, swabbed, blubber biopsied, equipped with satellite-linked platform transmitter terminals (PTTs) and/or VHF radio tags; (2) up to 10 sea lions to be unintentionally killed during the

course of developing and testing effective chemical immobilization protocols; and (3) up to 1000 sea lions to be unintentionally disturbed during the course of the research activities. These activities may be carried out over a two-year period in Alaska.

Notice is hereby given that on March 20, 1992, as authroized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued two Permits for the above takings, subject to certain conditions set forth therein.

Issuance of the Steller sea lion Permit, as required by the Endangered Species Act of 1973, is based on the finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permits and supporting documentation are available for review in the following offices:

By appointment: Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910; and

Director, Alaska Region, National Marine Fisheries Service, Fed. Bldg., 709 W. 9th Street, Juneau, Alaska 99802 (907/568–7221).

Dated: March 20, 1992.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 92–7069 Filed 3–26–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Issuance of a Scientific Research Permit (P475).

On December 30, 1991, notice was published in the **Federal Register** (56 FR 67287) that an application had been filed by Ms. Dena R. Matkin, Gustavus, AK 99826 for a Permit to harass annually, up to five times each, up to 150 killer whales (*Orcinus orca*) during photo-identification studies. The purposes of the proposed research are to: Continue the applicant's long-term photo-identification of killer whales that utilize the southeastern Alaska ecosystem; determine pod composition and cohesiveness: define within-pod affiliations; and assess the effects of the Prince William Sound oil spill on habitat use by killer whales in southeastern Alaska.

Location of activity: The proposed activities will be conducted year-round in southeastern Alaskan waters.

Notice is hereby given that on March 20, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit to the above applicant to inadvertently harass the marine mammals described above subject to certain conditions set forth therein. To provide a standard, quantifiable measure of approach effort, approaches <100 yards and those animals showing signs of being disturbed no matter the distance are considered "taken" by harassment and counted against the number of animals authorized in the Permit. The Permit became effective upon the date of signature.

In light of a planned review by the National Marine Fisheries Service of North Pacific humpback whale/killer whale research during 1992, Permit 772 has been issued only through December 31, 1992.

Issuance of this Permit is based on a finding that the proposed taking is consistent with the purposes and policies of the Marine Mammal Protection Act. The Service has determined that this research satisfies the issuance criteria for scientific research permits. The taking is required to further a *bona fide* scientific purpose and does not involve unnecessary duplication of research.

The Permit and associated documents are available for review in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910 (301/773–2289);

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, AK 99802 (907/586–7221); and

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526–6150).

Dated: March 20, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–7070 Filed 3–26–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Application for Public Display Permit, Zoo Parquesan, Parques de Fuengirola Malaga, Malaga, Spain (P508).

SUMMARY: Notice is hereby given that an applicant has applied in due form for a Public Display Permit to obtain the care and custody of marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. *Applicant:* Zoo Parquesan, Parques de Fuengirola, Camino Jose Cela, s.n., 29640 Fuengirola, Malaga, Malaga, Spain 29640.

2. *Type of Permit:* Public Display.

3. *Name and Number of Animals:* Two (2) male California sea lions (*Zalophus californianus*).

4. The applicant requests authorization to obtain and maintain two male California sea lions, from captive stock, currently in the custody of The Marine Mammal Center, Sausalito, CA.

Duration of Activity: The animals are to be maintained indefinitely at Zoo Parquesan in Malaga, Spain, with the applicant having full responsibility for the care and maintenance of the animals as certified by the Spanish Government.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, NMFS, U.S. Department of Commerce, 1335 East-West Highway, SSMC#1, room 7330, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above application are available for review by interested persons in the following office:

Permits Division, Office of Protected Resources, NMFS, 1335 East-West

Highway, SSMC#1, room 7330, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, NOAA, 501 W. Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213 (310/980–4001).

Dated: March 23, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–7071 Filed 3–26–92; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List fiberboard wood boxes to be furnished by a nonprofit agency employing persons who are severely disabled.

EFFECTIVE DATE: April 27, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On January 6, 1992, the Commitee for Purchase from the Blind and Other Severely Handicapped published a notice (57 FR 400) of the proposed addition of these wood boxes to the Procurement List.

Comments were received from the current contractor for these boxes. The commenter indicated that loss of its contracts would constitute a severe adverse impact on it. It also indicated that the nature of the manufacturing process made it unsuitable for workers with severe disabilities, and that the use of workers without disabilities would merely displace its workers. It also indicated that the result of this action would be an increase in the prices paid by the Government.

Based on the data the commenter submitted, the Committee has determined that the impact on the current contractor would not be severe. The boxes would be produced almost entirely by workers with severe disabilities, so the contractor's workers would not be displaced by other workers without disabilities. The Committee's statute requires that items on the Procurement List be supplied to the Government at a fair market price. Consequently, any increase above the current contract price would be minimal and would be within the range of prices offered by the commercial market.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action wil not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Box, Wood, Fiberboard

8115–00–L01–0679
8115–00–L01–0680
8115–00–L01–0681
8115–00–L01–0682
8115–00–L01–0684
8115–00–L85–0005

(Requirements of the Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania only)

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 92–7141 Filed 3–26–92; 8:45am]

BILLING CODE 6820–33–M

Procurement List Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 27, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 577–1145.

SUPPLEMENTARY INFORMATION: On November 8, 1991, January 10 and 31, 1992 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 57323, 57 FR 1147 and 3750) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities or service to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities or service.

3. The action will result in authorizing small entities to furnish the commodities or service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities or service proposed for addition to the Procurement List.

Accordingly, the following commodities and service are hereby added to the Procurement List:

Commodities

Skid, Wood
3990-00-NSH-0065
(Requirements for the Government Printing Office, Washington, DC)
Scraper, Ice
7920-01-323-0793
Coveralls, Men's
8405-00-037-9184
8405-00-037-9234
8405-00-037-9274
8405-00-037-9280
8405-00-037-9281
8405-01-173-7438
8405-01-173-7439
8405-01-173-7440

Service

Janitorial/Custodial
Fort Shafter Buildings 200, 214, 230, T-1, T-128, T-223, T-1544, T-1571
Tripler Army Medical Center Building 127 Oahu, Hawaii

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 92-7142 Filed 3-26-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 27, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and a service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action does not appear to have a severe economic impact on current contractors from the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no know regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48C) in connection with the commodities and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and service to the Procurement List:

Commodities

Enema Administration Kit
6530-00-117-8991
Microfiche, FAA Airworthiness Documents
7690-00-NSH-0021 (Program C684-S)
(Requirements for the Government Printing Office, Washington, DC only)

Service

Mail and Messenger Service, U.S. Army Corps of Engineers, Huntsville, Alabama.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 92-7143 Filed 3-26-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to the Procurement List a multi-loop line to be furnished by a nonprofit agency employing persons who are severely disabled.

EFFECTIVE DATE: April 27, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On December 2, 1991, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (56 FR 61234) of the proposed addition of this multi-loop line to the Procurement List.

No comments were received during the public comment period. However, late in the rulemaking process, comments were received from the current contractor and a State rehabilitation counselor addressing the issues of impact on the current contractor and its employment of people with disabilities. The comments indicated that as many as twelve employees with disabilities could be displaced if the contractor could no longer supply multi-line loops to the Government.

The Committee understands that the multi-loop line being added to the Procurement List by this rulemaking is one of 61 such lines in the Government supply system, 26 of which are being currently procured. This line is the fourth to be added to the Procurement List, leaving at least 22 available for the contractor to compete on suppling to the Government. The contractor has admitted that loss of this one line would not impact it severely. The Committee has taken this into account, as well as the impact of two other lines added to the Procurement List for which this contractor was the current contractor, in concluding that this rulemaking will not constitute severe adverse impact on the contractor. The Committee believes that the creation of employment for persons with severe disabilities under its program, which requires that a large percentage of direct labor be performed by persons with these disabilities, outweighs a possible loss of employment for a small number of persons with disabilities who may be discharged by their employer for other reasons.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodity at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government

under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is hereby added to the Procurement List:

Line, Multi-Loop
1670–01–062–6308

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E. R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 92–7226 Filed 3–26–92; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 10 April 1992.

Time: 0800–1100 hours.

Place: Pentagon, Washington, DC.

Agenda: The members of the Army Science Board Issue Group Study on Longbow for the Comanche and Apache will meet with representatives from the Army Materiel Systems Analysis Activity (AMSAA) and representatives of Harry Diamond Labs (HDL) to review the sensitivity analysis conducted by AMSAA for the Longbow Fire Control Radar Stationary Target Indications. The members will review available technical documentation, and review radar and missile requirements given the physical specifications of the missile and radar. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–7208 Filed 3–26–92; 8:45 am]

BILLING CODE 3710–8–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 13–14 April 1992.

Time: 0900–1700 hours.

Place: Picatinny Arsenal, Dover, New Jersey.

Agenda: The Army Science Board Systems Issue Group will meet with government and contractor representatives to discuss results of the test firings at Yuma Proving Grounds, review pressure oscillation analysis, and discuss the latest design of the Regenerative Liquid Propellant Gun. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–7209 Filed 3–26–92; 8:45 am]

BILLING CODE 3710–8–M

DEPARTMENT OF ENERGY

USDOE Field Office, Oak Ridge (OR); Notice

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b)(2), it intends to issue on a noncompetitive basis a new grant to the University of Florida to conduct a training course for the period May 3–June 13, 1992 under the sponsorship of the International Atomic Energy Agency (IAEA). The course is the 1992 U.S.-Hosted Inter-Regional Training Course for IAEA, entitled "Use of Isotopes and Radiation in Insect Control and Entomology." The period of performance will be from the date of award through September 30, 1992. The estimated amount is $67,000.

Procurement Request No.: 05–92IE11099.000.

Project Scope: This new grant is to conduct a course that has been held at the University of Florida every other year since 1963. The primary pupose is to provide technical training for research entomologists world wide as part of an international effort to increase food supplies through controlling pests that cause significant losses. The course promotes peaceful uses of atomic energy as well as public interest in disseminating knowledge about techniques to control insect pests harmful to the United States. The University of Florida has the unique availability and access to major Federal, State, and University entomology laboratories that are all located within the Gainesville, FL commuting area. Their location enables the course to enhance lectures by including site visits and hands-on laboratory work. Eligibility for this award is, therefore, restricted to the University of Florida.

FOR FURTHER INFORMATION CONTACT: Barbara Thomas, Division of Nuclear Non-Proliferation Policy, Office of International Affairs, USDOE, Washington, DC 20585, (202) 586–6188.

Issued in Oak Ridge, Tennessee, on March 18, 1992.

Willis Davis,

Acting Director, Procurement and Contracts Division, USDOE Field Office, Oak Ridge (OR).

[FR Doc. 92–7144 Filed 3–26–92; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award; Intent To Award Grant to Hyberport, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) to Hyberport, Incorporated under Grant No. DE–FC01–92CE15538. The proposed grant will provide funding in the estimated amount of $83,791 for Hyberport, Inc., to save energy by developing and commercially demonstrating their Electronic Control for Thermostatic Expansion Valves (ECTXV). The ECTXV is a device that extends the range of efficient operation of refrigeration, heat pump, and air-conditioning systems.

In accordance with 10 CFR 600.14(e)(1), it has been determined that this represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation.

The co-inventors, Joseph Marsala and Melvin M. Winters, both have considerable experience with refrigeration systems and associated control systems.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy-Related Inventions Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed technology has a strong possibility allowing for future reductions in the energy consumption of the United States. The program has never issued and has no plans to issue a competitive solicitation.

The anticipated term of the proposed grant is 18 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Bernard G. Canlas, PR–322.2, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 92–7145 Filed 3–26–92; 8:45 am]

BILLING CODE 6450–01–M

Intent To Award a Grant to Pennsylvania State University for Advanced Thermally Stable Coal-Derived Jet Fuels Research Program

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Intent to make a noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (A) and (D), it intends to make a noncompetitive financial assistance award (grant) to Pennsylvania State University (PSU).

SUPPLEMENTARY INFORMATION: This financial assistance award is intended to support a long-term R&D effort (including both basic and applied research) with the primary objectives to: (1) Investigate the quantitative degradation chemistry of fuels, (2) characterize solid gums, sediments, and carbonaceous deposits, (3) conduct coal-based fuel stabilization studies, and (4) conduct exploratory conversion studies of coal to high thermal stability jet fuels.

In accordance with 10 CFR 600.7(b)(2)(i) criteria (A) and (D), Pennsylvania State University has been selected as the grant recipient. DOE support the activity would enhance the public benefits in that the technology developed under the program will also eventually have direct future applications for the development of improved commercial aviation jet fuels. This noncompetitive financial assistance is an extension of a previous subprogram funded by the Department of Defense and is justified as a logical extension of the research that PSU began under prior DoD agreements. Competition would have a significant adverse effect on the continuity and completion of the research. Therefore, the Department of Energy has determined that a competitive solicitation would be inappropriate. Furthermore, PSU is uniquely qualified and situated to conduct the research which would satisfy the needs of DOE's Fossil Fuel Energy R&D Program.

The term of the grant is for a one (1) year period, with an estimated value of $2,000,000.00. For further information contact: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236–0940, Attn: John N. Augustine, Telephone: AC (412) 892–4524.

Issued in Washington, DC on March 18, 1992.

Richard D. Rogus,

Contracting Officer, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 92–7146 Filed 3–26–92; 8:45 am]

BILLING CODE 6450–01–M

Bonneville Power Administration

Columbia Power Cooperative Association, Antelope-Fossil Rebuild Project; Floodplain and Wetland Involvement Notification

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of floodplain and wetland involvement, Wheeler and Wasco Counties, Oregon.

SUMMARY: BPA proposes to amend an existing lease agreement with Columbia Power Cooperative Association (CPCA) to upgrade a transmission line between the Antelope Substation and the BPA Fossil Substation in Wasco and Wheeler Counties, Oregon. The project involves rebuilding and reconductoring 23.2 miles of transmission line, including modification from 69kV to 115kV. This project represents our extension of similar modifications undertaken in 1987 along adjacent portions of the transmission line by Columbia Power Cooperative and Wasco Electric. This rebuild will be constructed along the existing right-of-way for the present transmission line and consists essentially of the same line upgraded for future loads. The existing line route crosses riparian wetlands and the floodplains of the John Day River, plus several minor tributaries. No alternative routes have been identified for the transmission line.

DATES: Any comments are due on or before April 13, 1992.

FOR FURTHER INFORMATION AND/OR TO MAKE COMMENTS, CONTACT: John Taves—EFBG, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208.

SUPPLEMENTARY INFORMATION: A 100-year floodplain exists along portions of the the John Day River, which will be crossed by the project. This floodplain occurs along the Wheeler County-Wasco County boundary and includes sections 3, 4, and 5 in Township 8 South, Range 19 East. The floodplain also involves sections 32, 33, 34, 35, and 36 within Township 7 South, Range 19 East along the John Day River, the lower portion of which includes Hancock and Indian Canyons bordering Pine Creek and Cove Creek tributaries. Near the community of Fossil the project route also crosses the 100-year floodplain of Cottonwood Creek within section 8, Township 7 South, Range 21 East. All of the proposed facilities will be located within the Cooperative's existing right-of-way with powerline structures positioned to minimize impact on wetlands and other environmental considerations. It will be necessary to locate some structures within the 100-year floodplain along the John Day River and associated tributaries.

Limited riparian and seasonal wetlands also occur within the 100-year floodplain of the John Day River within previously cited sections. Additional isolated pockets of seasonally moist areas occur within section 34 of Township 7 South, Range 17 East, section 3, Township 8 South, Range 17 East, and section 34, Township 7 South, Range 19 East. The proposed project also crosses several minor seasonally flooded drainages and small creeks along the proposed route.

In accordance with DOE regulations for compliance with floodplain and wetland environmental review requirements (10 CFR part 1022), BPA will prepare a floodplain/wetland assessment on this proposed action. This floodplain/wetland assessment will be included in the Environmental Assessment and the Floodplain Statement of Findings will be included in a Finding of No Significant Impact or Final Environmental Impact of Statement. Maps and further information are available from BPA at the address shown above.

Issued in Portland, Oregon, on March 13, 1992.

Jack S. Robertson,

Acting Administrator, Bonneville Power Administration.

[FR Doc. 92-7149 Filed 3-26-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF91-23-001, et al.]

EEA I, L.P., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. EEA I, L.P.

[Docket No. QF91-23-001]

March 18, 1992.

On March 11, 1992, EEA I, L.P. (Applicant), of 1275 K Street, NW., suite 900, Washington, DC 20005-4005, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Union County, New Jersey. The facility will consist of a combustion turbine generator, a heat recovery boiler, and an extraction/condensing steam turbing generator. Thermal energy recovered from the facility will be provided to the United States Gypsum Company for process use. The primary energy source will be natural gas. The net electric power production capacity of the facility will be approximately 148.9 MW. Installation of the facility is scheduled to begin in June, 1992, with commercial operation scheduled to begin in January, 1994.

Comment date: April 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. The AES Corporation

[Docket No. QF83-145-001]

March 19, 1992.

On March 6, 1992, the AES Corporation (Applicant), of 1001 North 19th Street, Arlington, Virginia 22209, filed with the Federal Energy Regulatory Commission an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is located in Pasadena, Texas and is currently operating as a qualified topping-cycle cogeneration facility pursuant to an order issued by the Commission on April 11, 1983, 23 FERC ¶ 62,030 (1983). Applicant now requests that the facility be certified as a small power production facility. The facility consists of a single steam boiler fired by petroleum coke and a condensing steam turbine generator. The maximum net electric output of the facility is 143MW. Natural gas is used for start-up and flame stabilization. In addition, the ownership of the facility has changed from the AES Corporation to AES Deepwater, Inc.

Comment date: April 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Kansas City Power & Light Company

[Docket No. ES92-34-000]

March 19, 1992.

Take notice that on March 16, 1992, Kansas City Power & Light Company filed an application with the Federal Energy Regulatory Commission under § 204 of the Federal Power Act requesting authority to issue not more than $750 million of short-term debt instruments on or before June 30, 1994, with a final maturity date no later than June 30, 1995.

Comment date: April 15, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas & Electric Company

[Docket No. ER91-505-002]

March 20, 1992.

Take notice that on February 28, 1992, Pacific Gas & Electric Company (PG&E) tendered for filing its refund report in the above referenced docket.

Comment date: April 2, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Central Power and Light Company

[Docket No. ER92-349-000]

March 20, 1992.

Take notice that on March 4, 1992, Central Power and Light Company (CPL) tendered for filing the Second Amendment, dated December 19, 1991, to the Capacity Sale Agreement between CPL and Tex-La Electric Cooperative, Inc. (Tex-La) dated January 29, 1990, as amended.

The Second Amendment extends the term of the Capacity Sale Agreement from December 31, 1994 to December 31, 1995. It also decreases the contract capacity effective as of October 1, 1992 from 46 W to 6 MW, and increases the annual capacity charge for the 1995 contract year.

Copies of this filing were served upon Tex-La and the Public Utility Commission of Texas.

Comment date: April 2, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Central Louisiana Electric Company, Inc.

[Docket No. ER90-39-009]

March 19, 1992.

Take notice that on February 21, 1992, Central Louisiana Electric Company (CLECO) tendered for filing its compliance filing in the above-referenced docket.

Comment date: April 3, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Kalaeloa Partners, L.P.

[Docket No. QF89-198-001]

March 20, 1992.

On March 18, 1992, Kalaeloa Partners, L.P. (Applicant) tendered for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to certain technical information. No determination has been made that the submittal constitutes a complete filing.

Comment date: April 8, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-7078 Filed 3-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI92-15-000, et al.]

Amerada Hess Corporation, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Amerada Hess Corp.

[Docket No. CI92-15-000]

March 18, 1992.

Take notice that on December 5, 1991, as supplemented on February 18, 1992, Amerada Hess Corporation (AHC) of P.O. Box 2040, Tulsa, Oklahoma 74102, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for a blanket certificate to authorize jurisdictional sales of gas under contracts to which AHC is or becomes a successor-in-interest prior to the effective date of total decontrol under the Natural Gas Wellhead Decontrol Act of 1989, all as more fully set forth in the application which is on file with the Commission and open for public inspection. AHC also requests that the Commission waive its regulations regarding the submission of successor-in-interest filings, establishment of rate schedules and filing of blanket affidavits to cover collection of allowable prices.

Comment date: April 7, 1992, in accordance with Standard Paragraph J at the end of this notice.

2. Texas Gas Transmission Corp.

[Docket No. CP92-409-000]

March 18, 1992.

Take notice that on March 12, 1992, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP92-409-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization to transfer an existing delivery point for Ohio Valley Gas, Inc. (Ohio Valley) to Southern Indiana Gas and Electric Company (SIGECO) along with eighty-eight (88) existing "farm" tap customers under its blanket certificate issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas states that Ohio Valley and SIGECO (both existing sales customers of Texas Gas) entered into a sales agreement dated June 21, 1991, whereby SIGECO agreed to acquire the portion of the Wagner Sales Meter Station (Wagner SMS) currently owned by Ohio Valley along with eighty-eight (88) existing "farm" tap customers. Texas Gas indicates that the Wagner SMS is located in Warrick County, Indiana and the "farm" tap customers are located in the same general area in Gibson, Vanderburgh and Warrick Counties, Indiana.

Texas Gas states that the proposed annual maximum quantity of natural gas to be delivered to SIGECO through the transferred Wagner SMS and "farm" taps is 22,500 MMBtu, with a daily maximum quantity of 500 MMBtu. Texas Gas states that service to SIGECO can be accomplished through the proposed transferred delivery point within its current contract demand and quantity entitlement and Ohio Valley's contract demand and quantity entitlement will also remain unchanged.

Comment date: May 4, 1992, in accordance with Standard Paragraph G at the end of this notice.

3. Colorado Interstate Gas Co.

[Docket No. CP92-410-000]

March 18, 1992.

Take notice that on March 13, 1992, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP92-410-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon one 825-horsepower compressor engine at the Fuller Reservoir Field Compressor Station (Fuller) located in Fremont County, Wyoming, all as more fully set froth in the application which is on file with the Commission and open to public inspection.

CIG states that the 825-horsepower unit installed at Fuller in 1990 has been determined to have excess capacity for the volumes being produced in the Fuller Reservoir area of Wyoming. CIG states further that the unit proposed to be abandoned would be replaced by a 400-horsepower unit to be installed at the existing site pursuant to CIG's blanket certificate issued in Docket No. CP83-21-000.

Comment date: April 8, 1992, in accordance with Standard Paragraph F at the end of this notice.

4. Michigan Consolidated Gas Co.

[Docket No. CP92-92-406-000]

March 18, 1992.

Take notice that on March 11, 1992, Michigan Consolidated Gas Company (MichCon), pursuant to sections 3 and 7(c) of the Natural Gas Act and parts 157 and 385 of the Commission's Regulations, filed for: (1) An amendment to MichCon's section 3 authorization with respect to the St. Clair Pipeline (the "Section 3 Order") authorizing, with one exception, the unrestricted use of that pipeline in foreign and interstate commerce; and (2) either a declaratory order to the effect that MichCon may operate its St. Clair Pipeline in interstate commerce under its Order No. 63 blanket certificate, or, in the alternative, a limited jurisdiction blanket certificate under section 7(c) of the Natural Gas Act authorizing MichCon to operate the St. Clair Pipeline in interstate commerce subject to the same terms and conditions as are contained in its Order No. 63 blanket certificate.

Comment date: April 8, 1992, in accordance with Standard Paragraph F at the end of this notice.

5. Yukon Pacific Corp.

[Docket No. CP88-105-001]

March 18, 1992.

Take notice that on March 9, 1992, Yukon Pacific Corporation (Yukon Pacific) filed in Docket No. CP88-105-001, its Application to Amend its prior application filed in Docket No. CP88-105-000 on December 3, 1987. The purpose of this Amendment filing is to substitute "Yukon Pacific Company L.P." for "Yukon Pacific Corporation"as the applicant in this proceeding. On December 3, 1987, Yukon Pacific filed an application pursuant to the Commission's delegated Natural Gas Act section 3 Authority requesting an order aproving Anderson Bay, Alaska as the place of export for its Trans-Alaska Gas System (TAGS) project. Yukon Pacific was formed to construct, operate and maintain TAGS and to market LNG transported through TAGS in the Asian Pacific Rim countries of the Republic of China (Taiwan), and the Republic of Korea and Japan.

Yukon Pacific states that it and CSX [1] decided to implement a business form different than the corporate structure utilized in the TAGS project's initial stages. CSX and Yukon Pacific formed Yukon Pacific Company L.P. (YPLP), a Delaware limited partnership, by an agreement entered into on October 31,

[1] CSX holds a controlling interest in both Yukon Pacific and in Starr of Alaska, Inc.

1991, to serve as the future management and financing vehicle for the TAGS project. Yukon Pacific is the sole managing partner of YPLP and, as such, will be responsible for the day-to-day operations of the TAGS project. Starr of Alaska, Inc. (Starr), a wholly-owned subsidiary of CSX, is the sole limited partner and holds all of the limited partnership interests of YPLP.

As part of its decision to form YPLP, Yukon Pacific agreed to contribute all or substantially all of the State and Federal authorizations it holds that relate to the operation and development of the TAGS project, including the place of export authorization sought from the Commission in this proceeding. On behalf of YPLP, Yukon Pacific requests that the Applicant in this docket be redesignated by the Commission or its delegatee as "Yukon Pacific Company L.P.".

Comment date: April 8, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

6. Kern River Gas Transmission Co.

[Docket No. CP92-198-001]

March 19, 1992.

Take notice that on March 12, 1992, Kern River Gas Transmission Company (Kern River), P.O. Box 2511, Houston, Texas 77252-2511, filed pursuant to section 7 of the Natural Gas Act, as amended, and subpart A of part 157 of the Regulations of the Federal Energy Regulatory Commission, an amendment to its pending application of November 19, 1991, for a certificate of public convenience and necessity in Docket No. CP92-198-000. Kern River states that the purpose of the amendment is to reinstate its request in its application for authority to construct, own and operate the "Primary Case" facilities described in the application. The amendment states that the Primary Case in the application included facilities on Kern River's wholly-owned pipeline system and on the "Common Facilities" in California that Kern River owns jointly with Mojave Pipeline Company (Mojave) to expand the capacity of Kern River's system by 451,756 Mcf per day, based on the assumption that Mojave concurrently would expand its pipeline system's capacity by 200,000 Mcf per day.

Kern River states that the Director of the Office of Pipeline and Producer Regulation, by letter dated February 5, 1991, rejected the primary case without prejudice on the ground that Mojave had not then filed an application to expand its system in conjunction with the Primary Case expansion proposed by Kern River. On February 28, 1992, Kern River states, Mojave filed in Docket No. CP92-376 an application for authority to, *inter alia*, expand its system by 200,000 Mcf per day in conjunction with Kern River's Primary Case expansion. Kern River therefore amends its application in Docket No. CP92-198-000 to reincorporate its request for certification of the Primary Case.

Kern River states that it has submitted with its amendment a revised Exhibit G flow diagram illustrating operation of the Primary Case facilities and a revised Exhibit Z-1 illustrating operation of the Alternative Case facilities described in Kern River's application. These flow diagrams differ slightly from the corresponding flow diagram exhibits in the application, Kern River states, because of changes made to reflect more current information on contemplated deliveries from the Common Facilities and for consistency with the assumptions used by Mojave to prepare the flow diagrams contained in its application in Docket No. CP92-376-000. Kern River states that these changes do not alter the facilties in, or the estimated costs of, either the Primary Case or the Alternative Case as they were described in Kern River's application of November 19, 1991.

Comment date: April 9, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

7. Colorado Interstate Gas Co.

[Docket No. CP92-412-000]

March 19, 1992.

Take notice that on March 16, 1992, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP92-412-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation and exchange of natural gas service between CIG and Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG proposes to abandon the transportation and exchange service provided under a systemwide transportation and exchange agreement (agreement) between CIG and Northwest dated March 11, 1980, under CIG's Rate Schedule X-39 to be effective upon Commission approval. CIG states that CIG transports, pursuant to the agreement, up to 25,000 Mcf of natural gas per day delivered by Northwest at various points on CIG's system to a point of interconnect near Green River in Sweetwater County, Wyoming. CIG and Northwest provide reciprocal gathering for each other, it is stated. The agreement has a primary term of 20 years and thereafter as long as either party is delivering gas to the other party, it is stated. Since the agreement is only being used for minor volumes, CIG and Northwest entered into a termination agreement dated June 30, 1991, to terminate the agreement under CIG's Rate Schedule X-39 and to implement appropriate replacement gathering and transportation agreements, it is indicated. CIG states that CIG has been informed that Northwest has filed its companion application for abandonment authorization under Northwest's Rate Schedule X-66 in Docket No. CP92-253-000.

No facilities are proposed to be abandoned herein.

Comment date: April 9, 1992, in accordance with Standard Paragraph F at the end of this notice.

8. Trident NGL, Inc. and Oryx Energy Co.

[Docket No. CP92-416-000]

March 19, 1992.

Take notice that on March 13, 1992, Trident NGL, Inc. (Trident), 10200 Grogans Mill Road, the Woodlands, Texas 77380, and Oryx Energy Company, (Oryx) P.O. Box 2880, Dallas, Texas 77251-2880 (hereinafter collectively referred to as Trident/Oryx), filed in Docket No. CP-92-416-000 a petition under Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order finding that the facilities of and services performed by, the Rodman Gathering System, the MacKellar Gathering System and the Rodman-Enid 8-inch lateral pipeline located in Major, Garfield, Blaine and Kingfisher Counties, Oklahoma, will be exempt from the Commission's jurisdiction under section 1(b) of the Natural Gas Act, following the purchase of such facilities from Williams Natural Gas Company (WNG). Trident/Oryx also request that the declaratory state that it may change its rates under the blanket filing authority of § 154.94(h) of the Commission's Regulations, all as more fully set forth in the petition which is on file with the Commission and open to public inspection. Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure (18 CFR 385.212), Trident/Oryx request that the petition be consolidated with WNG's abandonment application in Docket No. CP92-351-000, and considered together for approval with that docket.

Trident/Oryx state that the Rodman Gathering System consists of 750 miles of pipe, ranging in size from two to twenty inches, all portions of which are located behind the Rodman Plant, which is owned by Trident/Oryx. It is stated that 647 miles of the Rodman system are owned by WNG and the remainder by Trident/Oryx and that Trident is the operator of the Rodman Plant. Gas gathered in the Rodman system is processed at the Rodman Plant and then delivered to WNG. In addition, it is stated that field compression is provided by Trident/Oryx, and WNG provides no compression services upstream of the Rodman Plant. Trident/Oryx state that the field compression is used to increase the typical well delivery pressure in the Rodman system from 20–30 psig to approximately 300 psig. This field compression is used to increase line pressures to permit deliveries of gas at the operating pressure of the Rodman Plant, where the gas is processed, dehydrated and recompressed for residue delivery to WNG. The secondary compression provided by the Rodman Plant increases the gas pressure to meet WNG's delivery standard of 700 psig.

It is stated that the MacKellar Gathering System consists of approximately 18 miles of 4-inch plastic pipe which overlays, but is not physically connected to, the Rodman System. Trident/Oryx state that a single producer owns the approximately 400 Mcf per day (Mcfd) of natural gas production attached to the MacKellar system. Gas is gathered from approximately nineteen points along the MacKellar system and is presently delivered to the Phillips Kingfisher Plant for processing and redelivered to WNG at the tailgate.

Trident/Oryx state that Rodman-Enid 8-inch line is one of two 8-inch lines that connect the Rodman Plant with WNG's Enid Compressor Station. Trident/Oryx propose to incorporate the Rodman-Enid 8-inch line into the operations of the Rodman Gathering System and, therefore, the line will no longer deliver pipeline quality gas to WNG. It is stated that the line's current pressure of 700 psig will be reduced to approximately 300 psig and numerous wells located along the Rodman-Enid line could be connected.

Following transfer of the facilities, Trident/Oryx state that WNG will enter into agreements with it for the use of the facilities as may be necessary to WNG. Trident/Oryx state that it will charge WNG no greater price than the lowest price it charges for similar services to similarly situated parties.

In addition, it is stated that WNG and Trident will enter into a new gas purchase contract for the sale of gas at the Rodman Plant tailgate. WNG will assign all its existing gas purchase contracts behind the plant to Trident to support the new tailgate purchase agreement. According to Trident/Oryx, the new tailgate sales agreement will maintain the current deliverability committed to WNG on the Rodman system for WNG's supply requirements. Trident/Oryx state that it stands ready to off gathering, processing and marketing services to all producers on the Rodman Gathering System and that its rates, terms and conditions will be no less favorable than those presently provided by WNG.[2]

It is stated that WNG presently provides natural gas to right-of-way grantors through approximately fifteen sales taps located on the Rodman system and the Rodman-Enid line. Further, approximately 1,258 Mcf per year of these sales are made to Kansas Power and Light Company which, in turn, sells to the right-of-way grantors. Trident/Oryx state that it will assume WNG's obligations to provide gas service to these right-of-way grantors who wish to receive continued service. It is estimated that the Rodman system provides approximately 11 Mcf per month. Since service to these right-of-way grantors is minor in nature, Trident/Oryx requests that the declaratory order state that Trident/Oryx may change its rate under the blanket filing authority of § 154.94(h) of the Commission's regulations.[3]

Trident/Oryx state that the facilities meet the physical criteria of the *Farmland*[4] test and should be declared exempt gathering facilities. It is stated that 95 percent of the facilities in the Rodman system have a diameter of 8 inches or less. The remaining segments, one 3.1-mile segment of 10-inch pipe, one 20-mile segment of 12-inch pipe, one 27-mile segment of 16-inch pipe and one 5.3-mile segment of 20-inch pipe are all low pressure lines which deliver gas to the Rodman Plant.

It is stated that the Rodman and MacKellar Gathering Systems spread out in a network-like configuration basically revolving around the Rodman and Kingfisher Plants, and consist of numerous lines of various diameter. It is also stated that the relatively short length and small diameter of both the gathering systems and the Rodman-Enid 8-inch line is consistent with their gathering function. Also, there are wells connected throughout the Rodman and MacKellar systems and along the Rodman-Enid line.

Trident/Oryx state that compression on the Rodman system is necessary to boost wellhead pressures to meet the plant inlet specifications of 300 psig. Secondary compression at the plant is necessary to meet WNG's system pressure of 700 psig. Therefore, it is stated that the compression is consistent with a gathering function. In addition, it is stated that the MacKellar system and the Rodman-Enid line will also be operated at pressures dictated by the operating pressure of the Rodman Plant.

Finally, Trident/Oryx state that they are not affiliated with WNG and will be providing only gathering and processing services. It is stated that the purpose of the facilities is solely to provide such gathering and processing services. Thus, Trident/Oryx state that its general business activity is consistent with treating the facilities as gathering.

Comment date: April 9, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to

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[2] Trident/Oryx state that it is aware of one situation involving a single producer of natural gas which has contracted directly with WNG for gathering services without contracting with Trident/Oryx for necessary field compression services. Without waiving any past, present or future claims for relief against such producer associated with nonpayment for field compression, Trident/Oryx states it will assume WNG's obligation to provide gathering services to such producer on rates, terms and conditions no less favorable than those presently offered by WNG.

[3] See, *Zenith Natural Gas Company*, 56 FERC ¶ 61,056 (1991).

[4] *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983).

the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92-7079 Filed 3-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. JD92-04471T; Colorado-40 Addition 3]

State of Colorado; NGPA Determination by Jurisdictional Agency Designating Tight Formation

March 20, 1992.

Take notice that on March 11, 1992, the Oil and Gas Conservation Commission of the State of Colorado (Colorado), submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that two portions of the Niobrara Formation in Boulder and Weld Counties, Colorado, qualify as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978 [NGPA]. The area of application is described as follows:

Township 2 North

Ranges 66, 67, 68, and 69 West, 6th P.M.
Sections 1-36: All

Township 1 North

Ranges 66 and 67 West, 6th P.M.
Sections 1-36: All

Township 1 South

Range 69 West, 6th P.M.
Sections 25-36: All
Range 70 West, 6th P.M.
Sections 1-36: All

The notice of determination also contains Colorado's findings, as amended on March 19, 1992, that the referenced portions of the Niobrara Formation meet the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 92-7080 Filed 3-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI89-343-000]

Phillips 66 Natural Gas Co.; Technical Conference

March 20, 1992.

Take notice that on April 7, 1992, the staff of the Federal Energy Regulatory Commission will convene a technical conference in the captioned proceeding to examine certain issues raised by the Phillips 66 Natural Gas Company (Phillips)'s application to abandon an exchange service with Transwestern Pipeline Company (Transwestern). Transwestern protested Phillips' application.

Action on this proceeding has been deferred, at the parties' request, while they attempted to resolve their differences. On February 19, 1991, Phillips advised staff that settlement wasn't reached and requested action on its abandonment request.

The issues to be addressed at the technical conference include:

- Whether the information in the record reflects the current conditions;
- The amount of the current gas imbalance owed to Transwestern;
- Whether the agreement is a gathering and processing service rather than an exchange; and
- Proposals for a possible settlement.

Attendance at the technical conference will be limited to parties to the proceeding and the Commission staff. The conference will be held at 10 a.m. at 810 First Street, NE., Washington, DC. The room number where the conference will be held will be posted on the first floor in that building on the day of the conference. For further information, contact Daniel Plumb at 202-208-0110.

Lois D. Cashell,

Secretary.

[FR Doc. 92-7081 Filed 3-26-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-203-000]

Tennessee Gas Pipeline Co.; Informal Settlement Conference

March 20, 1992.

Take notice that an informal settlement conference will be convened in this proceeding on March 30, 1992, at 2 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to

attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald Williams at (202) 208–0743 or Dennis H. Melvin at (202) 208–0042.

Lois D. Cashell,

Secretary.

[FR Doc. 92–7082 Filed 3–26–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 92–14–NG]

EMC Gas Transmission Co.; Application for Blanket Authorization To Export Natural Gas to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on February 6, 1992, of an application filed by EMC Gas Transmission Company (EMC) requesting blanket authorization to export up to a maximum of 15 Bcf of natural gas to Canada over a two-year period beginning on the date of first exportation. EMC states it would use existing facilities to implement the proposed exports, and would submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, April 27, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

C. Frank Duchaine, Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3G–087, FE–53, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8233.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: EMC, an Oklahoma corporation with its principal place of business in Detroit, Michigan, requests authority to export gas for its own account, as well as for the accounts of others. The specific terms of each export, including price and volume, would be negotiated at arms length in response to market conditions.

The export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issuesd in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of EMC's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 23, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–7147 Filed 3–26–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–07–NG]

Ledco, Inc.; Application for Blanket Authorization To Import and Export Natural Gas and Liquefied Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import and

export natural gas and liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 31, 1992, of an application filed by LEDCO, Inc. (LEDCO), for blanket authorization to import and to export a combined total of up to 200 Bcf of natural gas, including liquefied natural gas (LNG), from and to any foreign country. LEDCO requests that the authorization be granted for a period of two years beginning on the date of the first delivery of gas or LNG after May 22, 1992, when its current blanket import/export authorization expires. LEDCO intends to use existing pipeline and LNG facilities for the processing and transportation of the volumes to be imported and exported and would continue to file quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed in Washington, DC, at the address listed below no later than 4:30 p.m., eastern time, April 27, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–070, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9590

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: LEDCO, a Louisiana corporation with its principle place of business in Houston, Texas, is a marketer of natural gas. LEDCO is currently authorized to import up to 175 Bcf and export up to 175 Bcf of natural gas through May 22, 1992, under DOE/FE Opinion and Order No. 395 (Order 395), issued May 22, 1990 (1 FE Para. 70,318). LEDCO's prior quarterly reports filed with FE pursuant to Order 395's reporting requirements indicate that approximately 6,750 MMcf of gas was imported under Order 395 through December 31, 1991. No gas was exported during that time.

LEDCO requests authorization to import and export natural gas, including LNG, on a short-term or spot-market basis for its own account, as well as for the accounts of others for which LEDCO may agree to act as agent. LEDCO is interested in importing and exporting natural gas from and to any foreign country. The proposed imports would be sold on a short-term basis to a wide range of end-users in the United States including pipelines, local distribution companies, and commercial and industrial customers. The proposed export authorization would enable LEDCO to make natural gas available on a short-term or spot-market basis to various purchasers. The specific pricing terms of each import and export arrangement would be determined by competitive factors in the markets served through arms-length negotiations between the parties.

The decision on LEDCO's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issue determined to be appropriate in a particular case, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested import and export authority. LEDCO asserts that the proposed imports would be competitive and there is no current need for the domestic gas that would be exported. Parties opposing this application bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et. seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, request for additional procedures, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures by provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of LEDCO's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours

of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 23, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-7148 Filed 3-26-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of February 3 Through February 7, 1992

During the week of February 3 through February 7, 1992, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

A.H. Smith Associates, 2/5/92; RF272-67329, RD272-67329.

The DOE issued a Decision and Order granting an Application for Refund submitted in the subpart V crude oil proceeding by A.H. Smith Associates (AHSA). The refund was granted for petroleum products purchased during the crude oil price control period (August 19, 1973 through January 27, 1981) by the predecessor firm of AHSA, a sole proprietorship. Between the time the price control period ended and the time the Application for Refund was filed, the proprietorship was reorganized as AHSA, a partnership. The DOE determined that the partnership agreement, which gave the former proprietor substantial control over the operations of the partnership and a majority ownership in it, implicitly transferred the right to the refund from the proprietorship to the partnership. Consequently, the DOE found that AHSA was the appropriate recipient of the refund for crude oil overcharges incurred by the proprietorship. The DOE also denied a Motion for Discovery submitted by a group of States and Territories of the United States.

Elf Aquitaine Asphalt, Inc., 2/7/92; RF272-25151, RD272-25151.

The DOE issued a Decision and Order denying an Application for Refund filed by Elf Aquitaine Asphalt, Inc. (Elf Aquitaine) in the Subpart V crude oil refund proceeding. A group of States and Territories (the States') of the United States objected to Elf Aquitaine's claim. The firm's application was based on its purchase of 2,365,159,327 gallons of liquid asphalt which it used in the manufacture and sale of asphalt emulsions. The DOE found that the emulsion manufacturing process did not substantially alter the liquid asphalt component of the emulsion. Consequently, Elf Aquitaine was a reseller of a "covered product" and was not eligible to receive a refund without a demonstration of injury. Because the firm submitted no reasoned argument or specific information demonstrating that it was unable to pass through the effects of crude oil overcharges, the DOE denied its Application. The States' related Motion for Discovery was denied as moot.

Texaco Inc./Deal & Sullivan's Texaco, et al., 2/4/92; RF321-2801, et al.

The DOE issued a Decision and Order concerning 20 Applications for Refund filed in the Texaco Inc. subpart V special refund proceeding. Each applicant purchased directly from Texaco and was a reseller whose allocable share is less than $10,000, or an end-user. The DOE determined that each applicant was eligible to receive a refund equal to its full allocable share. Two of the applicants did not establish that they owned their outlets during the entire period for which they requested refunds. Accordingly, both received refunds only for those portions of the refund period for which they submitted ownership information. The total of the refunds granted in this Decision is $40,627, representing $31,441 in principal and $9,186 in interest.

Texaco Inc./Johnson's Texaco, et al., 2/4/92; RF321-10006, et al.

The DOE issued a Decision and Order concerning 20 Applications for Refund filed in the Texaco Inc. subpart V special refund proceeding. All the applicants were indirect purchasers of Texaco products and submitted all of the information required of applicants in the Texaco proceeding. One applicant's supplier, Lehigh Gas & Oil Company (Lehigh), did not purchase exclusively from Texaco during the refund period, but maintained separate inventory accounting and cost banks. Because Lehigh sold only Texaco branded products to its Texaco customers, the OHA determined that the applicant, Melo Zanolini Garage (RF321-13365), should receive a refund based on the full volumetric amount established in the Texaco proceeding. The 20 applicants were granted $41,679 ($32,254 principal plus $9,425 interest).

Texaco Inc./Niles Oil Co., Inc., 2/4/92; RF321-17953.

The DOE issued a Decision and Order concerning an Application for Refund that was filed on behalf of Niles Oil Co., Inc. (Niles Oil) by Robert C. Rolley in the Texaco Inc. subpart V special refund proceeding. In his application, Mr. Rolley claimed that he purchased Niles Oil from John Niles in 1979 and sold the stock back to Mr. Niles in 1980. Mr. Rolley asserted that although he sold the stock of Niles Oil in 1980, the right to refund remained with him because he never received full payment for the stock. John Niles and Niles Oil filed for bankruptcy in 1987 and the company was liquidated. As a creditor in the bankruptcy proceedings, Mr. Rolley received $54,104.29. The OHA determined that Mr. Rolley's application should be denied because he failed to show that ownership of the stock reverted to him as a result of Mr. Niles' failure to complete payment, and because the payment that Mr. Rolley received in the bankruptcy proceeding extinguished any interest in Niles Oil that Mr. Rolley may have retained.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Enron Corporation/Blackburn Propane Service	RF340-31	02/06/92
Enron Corporation/Dawson Oil Co., Ltd	RF340-3	02/05/92
Enron Corporation/Primitive Lake Campground	RF340-29	02/05/92
Gulf Oil Corporation/Belden Village Gulf	RF300-19482	02/05/92
Belden Village Gulf	RF300-19483	
Gulf Oil Corporation/Five Points Gulf	RF300-17320	02/05/92
Gulf Oil Corporation/Huffy Gas, Inc.	RF300-6351	02/06/92
Mid-States Petroleum, Inc.	RF300-11051	
Gulf Oil Corporation/Patrick M. Leeber	RF300-14290	02/06/92
Leeber Gulf Service #1	RF300-14291	

Leeber Gulf Service #2	RF300-14292	
Lincoln School District *et al.*	RF272-78814	02/05/92
Quantum Chemical Corporation/Jebb's Inc.	RF330-40	02/05/92
Shell Oil Company/Downtown Shell *et al.*	RF315-0064	02/07/92
Texaco Inc./Crudup Oil Co. Inc. *et al.*	RF321-7207	02/05/92
Texaco Inc./Warren Oil Co. *et al.*	RF321-7251	02/05/92
West Point Pepperell, Inc.	RR272-77	02/05/92

Dismissals

The following submissions were dismissed:

Name	Case No.
41st Street Texaco	RF321-10217
41st Street Texaco	RF321-10216
B-A Cartage	RF272-89092
Beaulieu & Son	RF272-89222
Dean Oldenburg's Texaco *et al.*	RF321-10901
Dee Thomason Ford Co.	RF272-86123
Douglas & Bess, Inc.	RF272-89226
Falk Transportation Co., Inc.	RF272-89386
Farragut Community School District	RF272-79191
Fullman Plumbing Co.	RF272-86351
G & C Texaco Service	RF321-12099
Hamburg Community School Dist.	RF272-78942
Lake Bluff Elementary School Dist. 65.	RF272-78936
Malvern School District	RF272-78837
Missouri Oil Jobbers	RF300-16562
Newman Rd. Texaco Service Sta. *et al.*	RF321-11101
The Country Store	RF321-12095

Appendix.—February 4, 1992

RF321-10901	Dean Oldenburg's Texaco.
RF321-10904	Osborne's Texaco.
RF321-10905	Bruce's Texaco.
RF321-10914	Bobby Payne's Texaco.
RF321-10918	John Pepline Texaco Service.
RF321-10920	Calvin's Texaco.
RF321-10924	Frank's Texaco.
RF321-10927	Prestridge Texaco.
RF321-10928	M.B. Price Texaco.
RF321-10931	Quesenberry's Texaco.
RF321-10933	Mt. Creek Service.
RF321-10935	Larry's Nikiski Texaco.
RF321-10936	Harlem & Irving Texaco.
RF321-10938	Northside Texaco.
RF321-10940	Gerry's Texaco Service.
RF321-10943	Roe Texaco Service.
RF321-10944	Dorsie Rogers' Texaco Ser. Sta.
RF321-10945	Enka Texaco.
RF321-10946	Alf & Tom's Texaco.
RF321-10947	William Romain, Jr.
RF321-10948	J.B. Ross Service.
RF321-10949	A.A. Roth & Sons.
RF321-10953	Merton Avenue Texaco.
RF321-10954	Rowland's Texaco Service Sta.
RF321-10956	Runkle's Service Center.
RF321-10957	Frank Rush's Texaco.
RF321-10958	Rynne's Riverside Texaco.
RF321-10963	Sassman Texaco.
RF321-10964	Hil's Texaco #1.
RF321-10965	Hil's Texaco #2.
RF321-10970	Don Sienkiewicz's Texaco.
RF321-10971	Palm Bay Texaco.
RF321-10972	Slauson's Texaco.
RF321-10973	Express Texaco.
RF321-10974	Belt Line Texaco.
RF321-10975	Lee's Texaco.
RF321-10976	George Smith's Texaco.
RF321-10977	Smith's Texaco Service Sta.
RF321-10978	John Smith Texaco.
RF321-10981	John Spillane' Texaco.
RF321-10983	Jimmy Cooke's Texaco.
RF321-10984	County Fuel Co., Inc.
RF321-10985	Cummings Brothers Inc.
RF321-10988	Harvey's Service & Hardware.
RF321-10992	Jesse Hensley Texaco.
RF321-10994	Kelly's Texaco Station.
RF321-10995	Orsburn Texaco.
RF321-10996	M & J I-94 Texaco.
RF321-10997	Sunset Texaco.
RF321-10998	John Hick's Texaco.
RF321-10999	Hillard's Texaco.
RF321-11000	Art's Texaco Service Center.
RF321-11004	Ecorse & Monroe Texaco.
RF321-11005	Stonewall Jackson Texaco.
RF321-11006	Quintex, Inc.
RF321-11008	Alvadore Store.
RF321-11011	Ed Jaskiewicz Texaco.
RF321-11013	Dale Jenkins Texaco.
RF321-11014	Jenkins Downtown Texaco Serv.
RF321-11017	Johnson's Texaco Service.
RF321-11018	Willie Johnson Texaco Service.
RF321-11019	Texaco Truck Service #1.
RF321-11020	Texaco Truck Service #2.
RF321-11021	Texaco Truck Service #3.
RF321-11022	Kelley's Texaco.
RF321-11023	Pine St. Texaco.
RF321-11024	Wannie Kelley Texaco.
RF321-11028	Sonny Kent's Texaco.
RF321-11029	Lantern Texaco.
RF321-11031	Kish Texaco Service Station.
RF321-11033	Bill Knox's Texaco.
RF321-11040	Kummer Texaco.
RF321-11046	Mike's Auto Service.
RF321-11047	Ed's Bait & Tackle.
RF321-11049	Twin Texaco.
RF321-11051	Lessa's Texaco.
RF321-11055	Liggins Texaco.
RF321-11056	Lighthouse Texaco.
RF321-11058	Leo Longtin's Texaco.
RF321-11059	Love's West Side Texaco.
RF321-11063	Texaco Truck Town.
RF321-11064	Highway Corner Texaco.
RF321-11065	Airview Texaco.
RF321-11066	McBride Auto Service.
RF321-11070	D L B Inc.
RF321-11075	Witmer Farms.
RF321-11076	George & Sons Texaco.
RF321-11078	McKeon's 199 Texaco Truck Stop.
RF321-11081	K & S Service Center.
RF321-11082	C & L Texaco.
RF321-11083	Melton's Northside Texaco Ser.
RF321-11084	Clark Oil & Refinery.
RF321-11087	Jim Miller's Texaco.
RF321-11088	Mills Service Station.
RF321-11089	Morris Texaco.
RF321-11092	J & I Truck Stop.
RF321-11093	B & B Auto.
RF321-11096	Bob Nall's Texaco Station.

APPENDIX

Case No.	Applicant/contact	Location
RF321-11101	Newman Rd., Texaco Service Sta., H. G. Norton or Wilson, Keller & Associates.	142 Newman Rd., Carrollton, GA 30117.
RF321-11102	Pleasant Valley Service, L. Pete Nulik or Wilson, Keller & Associates	2410 W. 25th St., North Wichita, KS 67204.
RF321-11143	Watson Heights Texaco Service, Baron L. Bailey or Wilson, Keller & Associates.	535 S. Hancock, Rockingham, NC 28379.
RF321-11144	Carolyn Bailey's Texaco, Carolyn Bailey or Wilson, Keller & Associates	Hwy. 74, Hamlet, NC 28345.
RF321-11146	Bill Blake's Lawndale Texaco, Eloise S. Blake or Wilson, Keller & Associates.	2100 Lawndale Dr., Greensboro, NC 27408.
RF321-11147	Bill's Texaco, Eugene Blazejewski or Wilson, Keller & Associates	2601 Main St., Niagara Falls, NY 14305.
RF321-11148	Joy Bybee's Texaco, Joseph Bybee or Wilson, Keller & Associates	W. Kearney St. & Lexington, Springfield, MO 65803.
RF321-11149	Jewell Carter's Texaco, Jewell Carter or Wilson, Keller & Associates	Hwy. 1 & 90, Rector, AR 72461.
RF321-11152	Grade A Fuel Service Ltd., William T. Comber or Wilson, Keller & Associates.	90 E. Hawthorne Ave., Valley Stream, NY 11582.
RF321-11153	Conley's Texaco, Naomi Conley or Wilson, Keller & Associates	1812 Desiard St., Monroe, LA 71201.
RF321-11154	Big Al's Texaco, Alvin C. Cords or Wilson, Keller & Associates	586 W. Division St., Fond Du Lac, WI 54935.

APPENDIX—Continued

Case No.	Applicant/contact	Location
RF321-11155	Curtis Texaco Service Station, Jimmy Curtis or Wilson, Keller & Associates.	4356 Hwy. 41, Ackworth, GA 30101.
RF321-11157	Tudor's Texaco Service Station, Geraldine Deberry or Wilson, Keller & Associates.	Hwy. 46, Gaston, NC 27832.
RF321-11158	Driggers Texaco, Othel Driggers or Wilson, Keller & Associates	342 Hwy. 78 E., Rt. 1, Summerville, SC 29483.
RF321-11160	John R. Evans Sr. Texaco, Mike Evans or Wilson, Keller & Associates	I-35, Austin, TX 78701.
RF321-11164	French Texaco, Butch French or Wilson, Keller & Associates	Hwy. 1 & 90, Rector, AR 72461.
RF321-11166	Arnold's Texaco Service Center, Arnold Goode or Wilson, Keller & Associates.	939 Jackson St., Roanoke Rapids, NC 27870.
RF321-11167	Larry Graham's Texaco, Felicia Graham or Wilson, Keller & Associates	401 S. Jackson, Russellville, AL 35653.
RF321-11169	Uni-Marts, Inc., Terry Hale or Wilson, Keller & Associates	477 E. Beaver Ave., State College, PA 16801.
RF321-11172	Bibb Street Texaco, Johnnie M. Houlton or Wilson, Keller & Associates	449 Bibb St., Montgomery, AL 36104.
RF321-11176	Twin City Texaco, Peter Kennedy or Wilson, Keller & Associates	1434 S. Carpenter Ave., Iron Mountain, MI 49802.
RF321-11178	Diversified Texaco, Howard J. La Pointe or Wilson, Keller & Associates	4545 N. High St., Columbus, OH 43214.
RF321-11181	O-K Garage, Frank Loercher or Wilson, Keller & Associates	5833 Nieman Rd., Shawnee, KS 66203.
RF321-11182	Little John's Texaco & Shoppet, John Mackool or Wilson, Keller & Associates.	906 Ave. E, Westpoint, GA 31833.
RF321-11183	Berkeley Texaco, William G. Martin or Wilson, Keller & Associates	1052 Mendon Rd. & Broad, Cumberland, RI 02864.
RF321-11184	Jerry Martini's Texaco, Jerry R. Martini or Wilson, Keller & Associates	286 W. Main St., Uniontown, PA 15401.
RF321-11185	Jack McCullogh's Texaco, Jack L. McCullough or Wilson, Keller & Associates.	625 N. Broadway St., Rochester, MN 55906.
RF321-11186	North Meridian Texaco, Gregg McKown or Wilson, Keller & Associates	433 Meridian St., Puyallup, WA 98371.
RF321-11187	Montgomery's Texaco, Louise Montgomery or Wilson, Keller & Associates.	Rt. 7, Russellville, AL 35653.
RF321-11191	Ron Parker's Texaco, Ronnie Parker or Wilson, Keller & Associates	1121 E. Taft, Sapulpa, OK 74066.
RF321-11193	Preato's Texaco, John Preato or Wilson, Keller & Associates	1019 E. Main, Torrington, CT 06790.
RF321-11194	Sarge's Texaco, Thomas P. Prichard or Wilson, Keller & Associates	Pulaski Pike & Carmichael, Huntsville, AL 35810.
RF321-11195	Main Street Texaco, George L. Puckett or Wilson, Keller & Associates	606 E. Main St., Plymouth, NC 27962.
RF321-11198	Reinhart's Texaco, Earl A. Reinhart or Wilson, Keller & Associates	Greenville-Sharon Rd., Transfer, PA 16154.
RF321-11199	Sackett's Texaco, David Sackett or Wilson, Keller & Associates	560 N. Sharpsville Ave., Sharon, PA 16146.
RF321-11200	Pleasant Garden Texaco, Charles Sams or Wilson, Keller & Associates	N. Main St. & Neeley Rd., Pleasant Garden, NC 27313.
RF321-11201	Alex Schmidt Texaco, Alex Schmidt or Wilson, Keller & Associates	1702 Lapeer Ave., Port Huron, MI 48060.
RF321-11202	Schmidt Bros. Texaco #2, Alex Schmidt or Wilson, Keller & Associates	Water St., Port Huron, MI 48060.
RF321-11204	Pilot View Texaco Service, J.T. Shelton or Wilson, Keller & Associates	139 Hwy. 52 Bypass, Mount Airy, NC 207030.
RF321-11206	Sinkfield's Texaco Service, Jesse B. Sinkfield or Wilson, Keller & Associates.	Poole Creek Rd. & Gilbert, Atlanta, GA 30354.
RF321-11209	Stidham Tire Co., Inc., Henry Stidham or Wilson, Keller & Associates	4th & Broad St., St. Paul, VA 24283.
RF321-11210	Swope Motors Texaco Service, F. Williams Swope or Wilson, Keller & Associates.	N. Dixie Ave., Box 606, Elizabethtown, KY 42701.
RF321-11218	Ted Yackera Texaco, Theodore J. Yackera or Wilson, Keller & Associates.	301 E. Main & 3rd, Girardville, PA 17935.
RF321-11322	Country Club Road Texaco, Eva Tennant or Wilson, Keller & Associates.	500 Country Club Rd., Fairmont, WV 26554.
RF321-11357	Spivey's Northside Texaco, John Spivey or Wilson, Keller & Associates	6701 N. Kings Hwy., Myrtle Beach, SC 29575.

Totals: 45

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 2055, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: March 16, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 92-6554 Filed 3-26-92; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed During the Week of March 9 Through March 13, 1992

During the week of March 9 through March 13, 1992 the notice of objection to proposed remedial order listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: March 20, 1992.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

OXY USA, Inc, Washington, DC, LRO-0003

Notices of Objection were filed by a group of States on March 12, 1992, and by OXY USA, INC. (OXY), a wholly-owned subsidiary of Occidental Petroleum Corporation, on March 16, 1992, to a Proposed Remedial Order (PRO) which the DOE's Economic Regulatory Administration (ERA) issued to the firm on February 21, 1992. In the PRO, the ERA found that during October 1979 to April 1980, and September 1980 to December 1980, Cities Service Company (Cities), a predecessor to OXY, violated 10 CFR 211.66(b), (h), 211.67(j), and 205.202. Specifically, the ERA found that crude oil that Cities reported to the Entitlements Program as exempt crude oil was actually price-controlled crude oil, and that the alleged

misreporting resulted in $253,766,849.54 in excessive entitlements benefits.

[FR Doc. 92-7150 Filed 3-26-92; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4117-9]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intended transfer of confidential business information to contractors.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential business information (CBI) collected from the pulp, paper, and paperboard manufacturing industry to two new contractors. Transfer of the information will allow the contractors to assist EPA in developing air emission guidelines and standards under the Clean Air Act (CAA) and in developing effluent limitations guidelines and standards under the Clean Water Act (CWA). The information being transferred was collected or will be collected under the authority of section 308 of the CWA and/or section 114 of the CAA. Interested persons may submit comments on this intended transfer of information to the addresses noted below.

DATES: Comments on the transfer of data are due April 6, 1992.

ADDRESSES: Comments on transfer of data collected under section 114 of the CAA may be sent to Penny Lassiter, Chemicals and Petroleum Branch, Emission Standards Division (MD-13), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711. Comments on transfer of data collected under section 308 of the CWA may be sent to George Heath, Commodities Branch, Engineering and Analysis Division (WH-552), Office of Science and Technology, U.S. EPA, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Penny Lassiter at (919) 541-5396 or at the above address for information regarding uses of CBI under CAA authority. For information regarding uses of CBI under CWA authority contact George Heath at (202) 260-7165 or at the above address.

SUPPLEMENTARY INFORMATION: The EPA intends to transfer information, including CBI, to two new contractors: Research Triangle Institute (RTI), Post Office Box 12194, Research Triangle Park, NC 27709 and Midwest Research Institute (MRI), 401 Harrison Oaks Boulevard, suite 350, Cary, NC 27513.

The information being transferred consists primarily of information previously collected by EPA to support the development of air emission guidelines and standards under the CAA and to support the development of effluent limitations guidelines under the CWA for the pulp, paper, and paperboard manufacturing industry.

More specifically, the information being transferred to the contractors includes the following information collected under the authority of section 114 of the CAA or section 308 of the CWA: Information collected through questionnaires and surveys of the industry; all joint EPA-industry studies; site visit reports; monitoring and test data; test reports and sampling episode reports; and analytical summaries of this information and data.

EPA also intends to transfer to RTI and MRI all information listed above (including CBI) that may be collected or developed in the future under the authorities listed above. This information is necessary to enable RTI and MRI to carry out the work required by their contracts to support EPA's development of regulations for the pulp, paper, and paperboard industry.

EPA Office Receiving Support	Contractor	Contract No.	Type of Support
OAR/OAQPS/ESD	RTI, Research Triangle Park, NC	68-D1-0118	Technical
OAR/OAQPS/ESD	RTI, Research Triangle Park, NC	68-D1-0143	Economic
OAR/OAQPS/ESD	MRI, Cary, NC	68-D1-0115	Technical
OAR/OAQPS/TSD	MRI, Cary, NC	68-D1-0123	Technical

In the case of information claimed to be proprietary and, therefore, confidential, all regulations and confidentiality agreements apply. This transfer would not affect the status of this information as information claimed to be proprietary. The relevant contracts contain all confidentiality provisions required by EPA's confidentiality regulations (40 CFR 2.301(h)(2-3) and 40 CFR 2.302(h)(2-3)). Persons under contract to EPA to perform work for EPA may be designated authorized representatives if such designation is necessary for the contractor to carry out the work required by the contract. The following conditions apply when information claimed to be confidential is provided to a designated contractor:

(1) The authorized contractor representative and its employees (a) may use such confidential information only for the purposes of carrying out the work required, (b) must refrain from disclosing the information to anyone other than EPA without having received from EPA prior written approval of each affected business or of an EPA legal office, and (c) must return to EPA all copies of the information (and any abstracts or excerpts therefrom) upon request or whenever the information is no longer required for the performance of the work.

(2) The authorized contractor representative must obtain a written agreement from each of its employees who will have access to the information to honor the above-noted limitations. A copy of each such agreement must be furnished to EPA before access is permitted.

(3) The authorized contractor representative must agree that the conditions in the contract concerning the use and disclosure of confidential business information are included for the benefit of, and shall be enforceable by both EPA and any affected business having a proprietary interest in the information.

In accordance with those regulations, companies who have submitted information claimed to be confidential have until April 6, 1992, to comment on EPA's proposed transfer of this information to RTI, Research Triangle Park, NC and MRI, Cary, NC, for the purposes outlined above (40 CFR 2.301(h)(2-3) and 40 CFR 2.302(h)(2-3)). The EPA welcomes comment on this proposed transfer to these designated EPA contractors.

Dated: March 22, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92-7134 Filed 3-26-92; 8:45 am]
BILLING CODE 6560-50-M

[ER-FRL-4118-3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 9, 1992 through March 13, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1991 (56 FR 14096).

Draft EISs

ERP No. D–AFS–L65160–ID Rating EO2, Lockwood and North Round Valley Timber Sales and Road Construction, Implementation, Payette National Forest, New Meadows Ranger District, Adams County, ID.

Summary

EPA expressed environmental objections because of potential impacts of the sales on water quality and fisheries. Existing degraded habitat may be further damaged by timber harvest, particularly in the North Round Valley sale area. Additional information is needed on monitoring, fishery and water quality effect and air quality.

ERP No. D–BOP–G81004–OK Rating LO, Federal Transfer Center (FTC), Construction and Operation, Site Specific, Southeast corner of MacArthur and Southwest 74th Street, West of the Will Rogers World Airport, Oklahoma County, OK.

Summary

EPA had no objection to this project.

ERP No. D–FRC–L03005–00 Rating EC2, Northwest Natural Gas Pipeline Expansion Project, Construction and Operation, Licensing, from points in Canada and the United States to Washington, Oregon, Idaho, Wyoming, Nevada and California, WA, OR, ID, WY, NV and CA.

Summary

EPA expressed concerns based on potential adverse effects on water quality, fish and wetlands. The EIS needs to explore alternatives to the proposed action and alternative alignments to avoid wetlands. This proposal warrants detailed analysis. The high quality streams and rivers crossed by a pipeline require a detailed antidegradation analysis. Additional information is needed to describe mitigation measures, salmon spawning areas at the proposed crossing sites, and how trench dewatering and test water discharges will be handled. Clarification is needed about environmental inspectors.

ERP No. DB–NOA–L64015–AK Rating EC2, Groundfish Fishery of the Bering Sea and Aleutian Islands, Fishery Management Plans, Updated Information, Amendment 18/23 Inshore/Offshore Allocation Alternative Approval and Implementation, AK.

Summary

EPA expressed concerns based on adverse effects on a federally listed threatened species, the Steller sea lion. Additional information is needed on water and air quality. The supplemental final EIS should include economic information received and developed during the EIS and regulatory review processes. The Biological Opinion for the Steller sea lion, and mitigating measures to protect it, must be included in the supplemental final EIS.

Final EISs

ERP No. F–CDB–C80012–NY
City of Rochester School No. 25 and School No. 36 Replacement, CDBG, Rochester, Monroe County, NY.

Summary

EPA had no objection to the implementation of the proposed project.

Dated: March 24, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92–7154 Filed 3–26–92; 8:45 am]

BILLING CODE 6560–50–M

[ER-FRL-4118-2]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075. Availability of Environmental Impact Statements Filed March 16, 1992 Through March 20, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920087, Final Supplement, AFS, IL, Shawnee National Forest Land and Resource Management Plan, Amended Forest Plan and Updated Information, Implementation, Several Counties, IL, Due: April 27, 1992, Contact: Rodney K. Saller (615) 253–7114.

EIS No. 920088, Draft EIS, AFS, UT, Gardner Canyon Gypsum Open Pit Mine, Development and Operation, Special Use Permit and Possible 404 Permit, Mount Nebo Wilderness Area, Uinta National Forest, Juab County, UT, Due: June 15, 1992, Contact: Mark Sensibaugh (801) 798–3571.

EIS No. 920089, Draft EIS, FHW, MI, US 23 Improvements, MI–13 to MI–65 and segments of Standish and Omer Cities, Funding, Section 404 Permit and NPDES Permit, Arenac County, MI, Due: May 11, 1992, Contact: Norma Stoner (517) 377–1838.

EIS No. 920090, Final EIS, COE, CA, Sunrise Douglas Residential Development Project, General Plan Amendment and Rezoning, Approval and Section 404 Permit, Sacramento County, CA, Due: April 27, 1992, Contact: Larry Vinzant (916) 557–5263.

EIS No. 920091, Draft EIS, AFS, ID, Mex Mountain Area Timber Harvest, Implementation, Clearwater National Forest, Lochsa Ranger District, Idaho County, ID, Due: May 11, 1992, Contact: Kris Harelbaker (208) 926–4275.

EIS No. 920092, Draft EIS, COE, MS, Hickahala-Senatobia Creeks Watershed, Channel Modification Project and Demonstration Erosion Control, Implementation, Arkabutla Lake, Yozoo Basin, Tate County, MS, Due May 11, 1992, Contact: Wendell King (601) 631–5967.

EIS No. 920093, Draft EIS, AFS, UT, CO, Manti-La Sal National Forest Land and Resource Management Plan, Oil and Gas Leasing Development, Implementation, Sanpete, Utah, Sevier, Juab, Emery, Carbon, Grand and San Juan Counties, UT and Mesa and Montrose Counties, CO, Due: May 11, 1992, Contact: Carter E. Reed (801) 637–2817.

EIS No. 920094, Final EIS, FTA, MA, Old Colony Railroad Rehabilitation Project, Transit Improvements, Boston to Lakeville, Plymouth and Scituate, MA, Due: April 27, 1992, Contact: Donald J. Emerson (202) 366–0096.

EIS No. 920095, Draft Supplement, COE, IA, Perry Creek Flood Control Project. Construction of Channelization and Conduit Systems, Implementation, Sioux City and Woodbury Counties, IA, Due: May 11, 1992, Contact: Richard Gorton (402) 221–4598.

EIS No. 920096, Draft EIS, GSA, DC, Southeast Federal Center Construction and Consolidation for the housing of the General Services Administration and the Corp of Engineers, Headquarter's Offices, Southeastern Quadrant of the Anacostia River, DC, Due: May 11, 1992, Contact: Linda L. Eastman (202) 708–5334.

EIS No. 920097, Draft EIS, COE, CA, Folsam Dam and Reservoir Reoperation Plan and Flood Control for portions of the Sacramento

Metropolitan Area, Implementation, Sacramento County, CA, Due: May 11, 1992, Contact: Dr. Robert Koenigs (916) 557–6712

EIS No. 920098, Draft EIS, GSA, MD, Internal Revenue Service National Office Consolidation and Construction, Site Selection, First Capital Realty Site, Meridan Site, Riverside Site and Metroview Site, Prince George's, MD, Due: June 01, 1992, Contact: Linda L. Eastman (202) 708–5334.

EIS No. 920099, Draft EIS, NOA, ME, MA, RI, NY, DE, NH, CO, NY, PA, MD, VA, Summer Flounder Fishery Management Plan Amendment 2, Implementation, Exclusive Economic Zone (EEZ), ME, NH, MA, CO, RI, NY, NJ, PA, DE, MD, VA, Due: April 10, 1992, Contact: Dr. William W. Fox (301) 713–2239.

EIS No. 920100, Draft EIS, DOE, CA, Lawrence Livermore National (LLNL) and Sandia National (SNL) Laboratories, Continued Operation Construction, Funding, Livermore Valley, City of San Francisco, Alameda and San Joaquin Counties, CA, Due: June 11, 1992, Contact: Carol Borgstrom (202) 586–4600.

Amended Notices

EIS No. 920035, Draft EIS, UAF, CT, ME, NH, NJ, MA, VT, NY, PA, Aircraft Conversions at the Bradley Air National Guard (ANG) Base, 103rd Tactical Fighter Group, Bradley International Airport, CT and Barnes Air National Guard (ANG) Base, MA, Change in Utilization of Military Training Airspace in the Northeastern U.S., Due: April 24, 1992, Contact: Harry Knudson (301) 981–8143.

Published FR—02–7–92—Review period extended.

Dated: March 24, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92–7155 Filed 3–26–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4118–1]

Science Advisory Board; Drinking Water Committee, Open Meeting

April 13–14, 1992.

Pursuant to the Federal Advisory Committee Act, P.L. 92–463, notice is hereby given that the Science Advisory Board's (SAB) Drinking Water Committee (DWC) will meet on April 13–14, 1992 at the Howard Johnsons Hotel, 2650 Jefferson Davis Highway, Arlington, Virginia 22202. The meeting will begin at 9 a.m. on April 13th and 8:30 a.m. on April 14th, and will end no later than 5 p.m. on each day. The meeting is open to the public and seating is on a first-come basis.

The purpose of the meeting is for the Committee to review the Agency's Drinking Water Criteria Documents for Chlorine and for Chloramines. The Committee will also receive an update presentation on a chemical and microbial risk comparison model. Copies of these documents are NOT available from the Science Advisory Board. For more information concerning these documents and their availability, please contact: Ms. Lynn Papa, U.S. EPA, Environmental Criteria and Assessment Office (ECAO), Cincinnati, Ohio, Telephone: (513) 569–7587. The tentative charge to the Committee is to provide comments on the technical merit of the Criteria Documents and the proposed risk assessments for the compounds addressed in the documents, and to provide comment on the draft model and the assumptions for comparing microbial risk with chemical risk.

The Committee will also review guidance documents that the EPA and the states of the Great Lakes Basin have developed to meet the requirements of the Great Lakes Critical Programs Act. The documents were developed under the Great Lakes Water Quality Initiative and are intended to establish a consistent approach to water quality criteria for aquatic life, wildlife and human health for the states within the Great Lakes Basin The EPA has asked the SAB to review these documents and comment on the scientific validity of the proposed methods for water quality criteria, the calculations of wildlife criteria, the assumptions and databases used for risk assessments, and the development and use of bioaccumulation factors for the wildlife and human health criteria. The human health criteria are the focus of this meeting. The other issues were the subject of an SAB review conducted on February 18–20, 1992 by the Great Lakes Water Quality Subcommittee of the Ecologcial Processes and Effects Committee (EPEC). The DWC and the EPEC will produce coordinated report(s) on this issue. Copies of background documents and the charge to the SAB for this review are available from Mr. Kenneth Fenner, U.S. EPA, Region V, 77 West Jackson Boulevard, Chicago, IL 60604–3590 (Phone: (312) 886–6777).

For details concerning this meeting, including a draft agenda, please contact Mr. Robert Flaak, Assistant Staff Director, Science Advisory Board (A–101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Telephone: (202) 260–6552 and FAX: (202) 260–7118. Members of the public who wish to make a brief oral presentation to the Comittee must contact Mr. Flaak no later than Tuesday, April 7, 1992 in order to be included on the Agenda. Written statements of any length (at least 35 copies) may be provided to the Committee up until the meeting. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes.

Dated: March 13, 1992.

Robert Flaak,

Assistant Staff Director, Science Advisory Board.

[FR Doc. 92–7133 Filed 3–26–92; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–59935; FRL 4055–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1963 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 2 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92–104, March 22, 1992.

Y 92–105, April 5, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information

extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92-104

Manufacturer. Confidential.

Chemical. (S) Conjugated linoleic acid; styrene; acrylic acid; methyl methacrylate.

Use/Production. (S) Polymer for enamel coating. Prod. range: 100,000-250,000 kg/yr.

Y 92-105

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Polyester resin.

Use/Production. (G) Resin for coatings. Prod. range: Confidential.

Dated: March 23, 1992.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-7136 Filed 3-26-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended.

Japan Cruise Line, Inc., Shin Nihonkai Ferry Co., Ltd., Hankyu Ferry Co., Ltd., and Kanko Kisen Co., Ltd. 1-2-2-1300, Umeda, Kita-ku Osaka 530, Japan

Vessel: Orient Venus.

Dated: March 24, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-7128 Filed 3-26-92; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Indemnification of Passengers For Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended.

Japan Cruise Line, Inc., 1-2-2-1300, Umeda, Kita-Ku Osaka 530, Japan

Vessel: Orient Venus.

Dated: March 24, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92-7127 Filed 3-26-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Country Bankers, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 20, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Country Bankers, Inc., Blooming Prairie, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens State Bank of Hayfield, Hayfield, Minnesota, and at least 95 percent of the voting shares of Farmers and Merchants State Bank of Blooming Prairie, Blooming Prairie, Minnesota.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. J & L Holdings Limited Partnership, San Marcos, Texas; to become a bank holding company by acquiring 52 percent of the voting common shares of Plainview Holding Company, Plainview, Nebraska, parent of the following banks: The Nebraska Security Bank, Deshler, Nebraska; Cones State Bank, Pierce, Nebraska; Farmers National Bank, Pilger, Nebraska; and Plainview National Bank, Plainview, Nebraska.

2. MidAmerican Corporation, Shawnee Mission, Kansas; to acquire 100 percent of the voting shares of Jayhawk Bancshares, Inc., Kansas City, Missouri, parent of Lawrence National Bank, Lawrence, Kansas.

Board of Governors of the Federal Reserve System, March 23, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-7094 Filed 3-26-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Sustances and Disease Registry

Committees; Establishment Renewal, Termination; Scientific Counselors Board

ACTION: Notice of establishment—Subcommittee on Great Lakes Human Health Effects Research of the Board of Scientific Counselors, Agency for Toxic Sustances and Disease Registry.

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the establishment of the following subcommittee of the Board of Scientific Counselors, ATSDR:

DESIGNATION: Subcommittee on Great Lakes Human Health Effects Research.

PURPOSE: The subcommittee will advise the Board of Scientific Counselors on the scientific aspects of a program of human health effects research relevant to pollution of the Great Lakes.

Members of the subcommittee will be composed solely of members of the

Board of Scientific Counselors, ATSDR. The subcommittee will seek advice from special consultants, where appropriate. The subcommittee will meet approximately once a year.

SUPPLEMENTARY INFORMATION: The Great Lakes Critical Programs Act of 1990 mandates the Environmental Protection Agency, in consultation with ATSDR, to prepare a report by 1994 that describes the impact on human health of water pollutants in the Great Lakes. In support of this directive, Congress earmarked $2 million for ATSDR in fiscal year 1992 to support human health effects studies in the Great Lakes region.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Additional information concerning this subcommittee may be obtained from Charles Xintaras, Sc.D., Executive Secretary, Board of Scientific Counselors, ATSDR, (MS E–28), 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0708 or FTS 236–0708.

Dated: March 23, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination.

[FR Doc. 92–7092 Filed 3–26–92; 8:45 am]

BILLING CODE 4160–70–M

Food and Drug Administration

[Docket No. 92N–0146]

Drug Export; Florinef Acetate 0.1 MG Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bristol-Myers Squibb Co. has filed an application requesting approval for the export of the human drug Florinef Acetate 0.1 mg Tablets to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Bristol-Myers Squibb Co., P.O. Box 4000, Princeton, NJ 08543–4000, has filed an application requesting approval for the export of the human drug Florinef Acetate 0.1 mg Tablets to Canada. This drug is indicated for use as a partial replacement therapy for primary and secondary adrenocortical insufficiency in Addison's disease. The application was received and filed in the Center for Drug Evaluation and Research on February 18, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 6, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: March 20, 1992.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92–7152 Filed 3–26–92; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 92N–0145]

Drug Export; Ortho-Novum 10/11 Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that R.W. Johnson Pharmaceutical Research Institute has filed an application requesting approval for the export of the human drug Ortho-Novum 10/11 Tablets to Japan.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATON CONTACT: James E. Hamilton, Division of Drug Labeling Compliance (HFD–313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8073.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirement of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that R.W. Johnson Pharmaceutical Research Institute, Route 202, P.O. Box 300, Raritan, NJ 08869–0602, has filed an application requesting approval for the export of the human drug Ortho-Novum 10/11 Tables to Japan. This product is used for birth control. The application was received and filed in the Center for Drug Evaluation and Research on February 13, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 8, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluaton and Research (21 CFR 5.44).

Dated: March 20, 1992.

Sammie R. Young

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 92-7153 Filed 3-26-92; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Veterinary Medicine Advisory Committee

Date, Time, and Place

April 29 and 30, 1992, 8:30 a.m., Embassy III Conference Rm., Ramada Hotel and Conference Center, 8400 Wisconsin Ave., Bethesda, MD.

Type of Meeting and Contact Person

Open committee discussion, April 29, 1992, 8:30 a.m. to 10 a.m.; open public hearing, 10 a.m. to 1 p.m., unless public participation does not last that long; open committee discussion, 1 p.m. to 1:30 p.m.; open public hearing, 1:30 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 3 p.m.; open public hearing, 3 p.m. to 4 p.m., unless public participation does not last that long; open committee discussion, 4 p.m. to 4:30 p.m.; open committee discussion, April 30, 1992, 8:30 a.m. to 9 a.m.; open public hearing, 9 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 11:30 a.m.; Gary E. Stefan, Center for Veterinary Medicine (HFV-244), 7500 Standish Pl., Rockville, MD 20855, 301-295-8769.

General Function of the Committee

The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal disease and increased animal production.

Agenda—Open Public Hearing

Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee, should communicate with the contact person.

Open Committee Discussion

The committee will discuss extra-label use of animal drugs, availability of poison antidotes, Center for Veterinary Medicine guideline revisions, and aquaculture drug approvals and drug use.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 23, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-7107 Filed 3-26-92; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1992:

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: June 10-12, 1992, 9 a.m.

Place: Conference Room P, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open on June 10, 1992, 9 a.m.—10 a.m. Closed for remainder of meeting.

Purpose: To review research grant applications in the program area of maternal and child health administered by the Maternal and Child Health Bureau.

Agenda: The open portion of the meeting will cover opening remarks by the Director, Division of Systems, Education and Science, Maternal and Child Health Bureau, who will report on program issues, congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on June 10, at 10 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Anyone requiring information regarding the subject Council should contact Gontran Lamberty, Dr. Ph.H., Executive Secretary, Maternal and Child Heatlh Research Grants Review Committee, room 9-12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2190.

Agenda Items are subject to change as priorities dictate.

Dated: March 23, 1992.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 92-7063 Filed 3-26-92; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, March 13, 1992.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. Cosmetic Product Experience Reports (21 CFR part 730)—0910-0047—Experience data, when correlated with cosmetic product ingredient data, gives FDA scientists valuable insight into potentially unsafe cosmetic ingredients thereby improving FDA's ability to accomplish its mission of protecting consumers from injuries resulting from harmful ingredients in cosmetics. *Respondents:* Businesses or other for-profit, Small businesses or organizations. *Number of Respondents:* 125; *Number of Responses per Respondent:* 1 (1 Form FDA 2706 @1 hr. and 16 Form FDA 2704 @.2 hr. each); *Average Burden per Response:* 4.2 hours; *Estimated Burden Hours:* 525.

2. Registration of Cosmetic Product Establishment—21 CFR part 710—0910-0027—The registration of cosmetic manufacturers and repackers supplies FDA with current locations for on-site inspection, addresses for information and regulatory mailings, business trading names supplying product distribution sources, and aids FDA in responding to Freedom of Information requests. *Respondents:* Businesses or other for-profit; Small businesses or organizations. *Number of Respondents:* 50; *Number of Responses Per Respondent:* 1; *Average Burden Per Response:* 0.4 hrs.; *Estimated Burden Hours:* 20.

3. Surveillance of Hazardous Substances Emergency Event—New—The purpose of this activity is to maintain a state-based surveillance system for hazardous substance emergency events. The Agency for Toxic Substances and Disease Registry will use this information to analyze and describe risk factors associated with morbidity and mortality with reference to first responders, employers and the general public. *Respondents:* State or local governments; *Number of Respondents:* 19; *Number of Responses Per Respondent:* 108; Average Burden Per Response 1 hr.; *Estimated Burden Hours:* 2052.

Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC.

Dated: March 23, 1992.

Phyllis M. Zucker,

Acting Deputy Director, Office of Health Planning and Evaluation.

[FR Doc. 92-7132 Filed 3-26-92; 8:45]

BILLING CODE 4160-17-M

Indian Health Service; Method for Evaluating and Establishing Reimbursement Rates for Health Care Services Authorized Under the Indian Health Service Contract Health Service Regulations-Portland Area

AGENCY: Indian Health Service, PHS, HHS.

ACTION: Extension of project date.

SUMMARY: The termination date for the pilot project now being conducted in the Portland Area to determine whether an alternative method of evaluating and establishing reimbursement rates for contract health services has been changed from March 31, 1992 to March 31, 1993.

EFFECTIVE DATE: March 27, 1992.

FOR FURTHER INFORMATION CONTACT: Ronald G. Freeman, Director, Division of Health Care Administration, Contract Health Services, rm. 4B-17, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-8373. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Indian Health Service (IHS) issued a notice on March 13, 1991, 56 FR 10566, to inform the public that IHS was conducting a pilot project in the Portland Area, IHS, to determine whether an alternative method of evaluating and establishing reimbursement rates for contract health services would result in greater participation by health care providers and lower costs to IHS. Providers within the Portland Area were invited to submit their most favarable rate quotations. The response was far greater than the expectations of the IHS. As a result of the size of the response and the complexity of the development of rate quotation analyses methodologies for facilities, outpatient and professional providers and the development of preferred provider lists from these analyses, the length of time for this portion of the pilot project has taken longer than expected. A formal evaluation process will be performed during the final two months of the project by an outside entity selected by IHS and the Portland Area Tribes. We are, therefore, changing the termination date of this pilot project from March 31,1992 to March 31, 1993.

The Pilot project does not change the current IHS payment policy requirement

that health care services be procured at rates which do not exceed prevailing Medicare rates.

Dated: March 21, 1992.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 92-7111 Filed 3-26-92; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-71]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Corps of Engineers:* Gary B. Paterson, Chief, Base Realignment and Closure Office, Directorate of Real Estate, 20 Masachusetts Ave., NW, rm. 4133, Washington, DC 20314-1000; (202) 272-0520; *U.S. Air Force:* John Carr, Realty Specialist, HQ-AFBDA/BDR, Pentagon, Washington, DC 20330-5130; (703) 693-0674; *U.S. Navy:* John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332-2300; (202) 325-0474; (These are not toll-free numbers).

Dated: March 20, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM; FEDERAL REGISTER REPORT FOR 03/27/92

Arizona—Williams Air Force Base

Williams Air Force Base is located in Mesa, Arizona, 85240-5000. All the properties will be excess to the needs of the Air Force on or about September 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base consists of approximately 4,072 acres, 179 Government-owned buildings and 700 residential buildings that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Number: 199210096.
Type Facility: Housing—700 units of military family housing; 1-story with 2 to 5 bedrooms.

Property Number: 199210097.
Type Facility: Temporary Living Quarters—15 buildings; 1, 2, and 3-story structures including dorms and lodging.

Property Number: 199210098.
Type Facility: Support and Service Facilities—5 buildings; one 3-story fire station, one 1-story brick chapel, a gate house, a post office and an education center.

Property Number: 199210099.
Type Facility: Miscellaneous Facilities—24 buildings; 1 and 2-story structures including a library, bowling center, gym, child care, youth and recreation centers, theater, commissary and stores.
Property Numbers: 199210100–199210101.
Type Facility: Recreation—20 facilities including golf club bldgs., bathhouses, swimming pools, baseball, softball and soccer fields, tennis courts, track, golf course, driving range and a camp.
Property Number: 199210102.
Type Facility: Medical Facilities—6 buildings; 1-story block and concrete structures including a hospital, clinics and pharmacy.
Property Number: 199210103.
Type Facility: Laboratories—9 buildings; eight 1-story and one 3-story metal and concrete/block structures.
Property Number: 199210104.
Type Facility: Flight Training and Admin. Facilities—36 buildings; 1 to 3-story concrete block, wood and metal structures including law centers, offices, classrooms and flight training facilities.
Property Number: 199210105.
Type Facility: Warehouse and Storage Facilities—12 buildings; 1-story concrete, wood and steel structures including warehouses and storage bldgs.
Property Number: 199210106.
Type Facility: Base Support and Flight Maintenance Facilities—52 buildings; 1-story concrete/steel, concrete/block and steel structures including hangars, maintenance and jet engine shops.
Property Number: 199210107.
Type Facility: Hazardous and Explosive Storage—14 buildings; 1-story concrete and concrete/metal structures.

Illinois—Chanute Air Force Base

Chanute Air Force Base is located in Champaign, Illinois, 61868. All the properties will be excess to the needs of the Air Force on or about September 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base consists of approximately 2,174 acres, 164 Government-owned buildings and 463 residential buildings that have been reviewed by HUD for suitability for use to assist the homeless. The properies that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Number: 199210139.
Type Facility: Housing—463 houses with 1 to 8 units, brick and wood structure, possible asbestos.
Property Number: 199210140.
Type Facility: Temporary Living Quarters—24 buildings; 1 to 4-story dormitories and temporary living facilities, possible asbestos.
Property Number: 199210141.
Type Facility: Medical Facilities—2 buildings; 4-story concrete hospital and a 1-story concrete dental clinic, possible asbestos.
Property Number: 199210142.
Type Facility: Storage/Warehouses—28 buildings; concrete block, brick, metal and wood structures including supply and training bldgs., need repairs.
Property Number: 199210143.
Type Facility: Maintenance Bldgs.—15 buildings; 1-story maintenance facilities and shops, possible asbestos.
Property Number: 199210144.
Type Facility: Engine Test Cells/Warehouse—2 buildings; 1-story concrete storage/maintenance facilities, possible asbestos.
Property Number: 199210145.
Type Facility: Gas Stations—2 buildings; 1-story gas stations.
Property Number: 199210146.
Type Facility: Training Facilities—22 buildings; 1 to 4-story structures including training bldgs., classrooms, and labs, possible asbestos.
Property Number: 199210147.
Type Facility: Retail Stores—5 buildings; 1-story brick and wood structures including 4 branch exchanges and 1 commissary, possible asbestos.
Property Number: 199210148.
Type Facility: Chapel/Chapel Center—3 buildings; one 2-story brick chapel center and two 1-story wood chapels, possible asbestos.
Property Number: 199210149.
Type Facility: Fire Station—1 building; 2-story brick fire station, possible asbestos.
Property Number: 199210150–199210151.
Type Facility: Recreation—49 facilities; including gym, library, theater, golf bldgs., youth, child, bowling and recreation centers, track, softball fields, tennis courts, golf course and driving range.
Property Number: 199210152.
Type Facility: Administration—26 facilities; wood, brick and concrete structures including a band center, an education center, admin. bldgs. and offices, needs rehab, possible asbestos.
Property Number: 199210153.
Type Facility: Bldg. 386/Band Bldg.—31803 sq. ft., 2-story concrete block/wood band center, needs rehab.

Indiana—Fort Benjamin Harrison

Fort Benjamin Harrison is located northeast of Indianapolis in the City of Lawrence 46216–5000. All the properties will be excess to the needs of the Army Corps of Engineers on or about September 1995. Properties shown below as suitable/available will be available at that time. The Army Corps of Engineers has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The base covers 2501 acres and has 4.7 million square feet of facilities. The properties that HUD has determined suitable and which are available include family housing residences, temporary living quarters, office/administration buildings, various types of recreational facilities, child care centers and chapels, dining halls, a hospital, warehouses, miscellaneous and other specialized structures. More specific iniformation concerning properties at the base can be obtained by contacting Commander, U.S. Army Soldier Support Center, Attn: ATZI–CG–BR (Colonel John A. Peck), Fort Benjamin Harrison, Indiana 46216–5000.

Suitable/Available Properties

Property Numbers: 329210068–329210069.
Type Facility: Housing—90 family residences, 1 and 2 story brick frame; 29 temporary living quarters (barracks), brick or concrete frame.
Property Number: 329210070.
Type Facility: Office/Administration—26 buildings; wood, brick, concrete or concrete block frame; includes personnel and general purpose building.
Property Number: 329210071.
Type Facility: Recreational Facilities—28; wood, brick, concrete or concrete block frame; includes gym, canteen, golf course, swimming pool, riding stable, tennis court, bowling center, recreation buildings, basketball and handball courts, baseball fields, track, and playgrounds.
Property Number: 329210072.
Type Facility: Child Care Centers—2 buildings; brick frame; 5,818 & 14, 457 sq. ft.
Property Number: 329210073.
Type Facility: Dining Halls—4; brick frame; 11,075 to 31,439 sq. ft.
Property Number: 329210074.
Type Facility: Stores/Services—12 buildings; 140 to 68,899 sq. ft.; brick, wood, concrete or concrete block frame; includes restaurant, commissary, sales stores, exchange branches, and service outlet.

Property Number: 329210075.
Type Facility: Hospital, brick frame.
Property Number: 329210076.
Type Facility: 2 Chapels; 3,747 & 16,587 sq. ft., brick and aluminum frame.
Property Number: 329210078.
Type Facility: 2 Fire Facilities; 2,243 & 3,835 sq. ft.; includes fire station and hose house.
Property Number: 329210079, 329210083.
Type Facility: 2 Vehicle Shops and Fuel Facility; concrete/asbestos frame; 1 gas station building, 327 sq. ft.
Property Number: 329210080.
Type Facility: Maintenance Engineering—6 buildings; 168 to 14,074 sq. ft.; wood, brick or concrete block frame.
Property Number: 329210081, 329210082.
Type Facility: Explosives/Munitions and Hazardous Storage—10 buildings; 103 to 1,138 sq. ft.; brick, steel, concrete or wood frame; includes ammo magazines and flammable materials storage.
Property Number: 329210084.
Type Facility: 23 Warehouses; 960 to 56,650 sq. ft.; brick, concrete or steel frame.
Property Number: 329210085.
Type Facility: 150 Miscellaneous Buildings; 31 to 211,364 sq. ft.; includes headquarters & general instruction buildings; training centers and detached garages.
Property Number: 329210086.
Type Facility: 5 Multipurpose Buildings.

Land

Property Number: 329210077.
Type Facility: 2 Aircraft/Airport Facilities; 938 sq. yds.

Unsuitable Properties

Property Number: 329210087.
Type Facility: 1 Recreational Facility; within a floodway.

New Jersey

Suitable/Available Properties

COE—BC

Buildings (By Agency)

Bldg. PO5605, Fort Dix
8th Street and Doughboy Loop
Ft. Dix, NJ, Burlington, Zip: 08640–
Federal Register Notice Date: 03/27/92
Property Number: 329210064
Status: Unutilized
Base closure
Number of Units: 1
Comment: 6,137 sq. ft., 1 story, possible asbestos, most recent use—administration/classroom.
Bldg. PO5602, Fort Dix
8th Street
Ft. Dix, NJ, Burlington, Zip: 08640–
Federal Register Notice Date: 03/27/92
Property Number: 329210065
Status: Unutilized
Base closure
Number of Units: 1
Comment: 40,653 sq. ft., 3 story, not handicapped accessible, no sprinkler/fire escape doors on 2nd/3rd floors, most recent use—trainee barracks.
Bldg. PO5603, Fort Dix
8th Street
Ft. Dix, NJ, Burlington, Zip: 08640–
Federal Register Notice Date: 03/27/92
Property Number: 329210066
Status: Excess
Based closure
Number of Units: 1
Comment: 40,653 sq. ft., 3 story, not handicapped accessible, no sprinkler/fire escape doors on 2nd/3rd floors, most recent use—trainee barracks.
Bldg. PO5604, Fort Dix
8th Street & Doughboy Loop
Ft. Dix, NJ, Burlington, Zip: 08640–
Federal Register Notice Date: 03/27/92
Property Number: 329210067
Status: Excess
Base closure
Number of Units: 1
Comment: 12,194 sq. ft., 1 story, presence of asbestos, most recent use—admin/supply building.

Texas—Carswell Air Force Base

Carswell Air Force Base is located in Tarrant County, Texas, 76127. All the properties will be excess to the needs of the Air Force on or about September 30, 1993. Properties shown below as suitable/available will be available at that time. The Air Force has advised HUD that some properties may be available for interim lease for use to assist the homeless prior to that date.

The Base consists of approximately 2,308 acres, 214 Government-owned buildings and 352 residential buildings that have been reviewed by HUD for suitability for use to assist the homeless. The properties that HUD has determined suitable and which are available include various types of housing; office and administrative buildings; recreational, maintenance, and storage facilities; and other more specialized structures.

Suitable/Available Properties

Property Numbers: 199210108–199210122
Type Facility: Housing—352 military family residences; 1 and 2-story wood frame, concrete and brick/wood buildings.
Property Number: 199210123
Type Facility: Dormitories—7 buildings; 3 and 4-story concrete block dorms.
Property Number: 199210124
Type Facility: Temporary Living Quarters—6 buildings; 1 and 2-story brick and frame lodging facilities.
Property Number: 199210125
Type Facility: Administration Facilities—45 buildings; 1 to 4-story concrete block, brick, metal and wood structures including education centers, child care, clinics and admin. bldgs.
Property Number: 199210126
Type Facility: Recreation Facilities—13 buildings; metal, concrete block, brick and wood structures including golf club equip. houses, bathhouse, gym, bowling, youth and recreation centers and NCO clubs.
Property Number: 199210127
Type Facility: Recreation Areas—14 areas; approximately 172 acres including golf course, riding stables, playground and picnic area, camps and tennis courts.
Property Numbers: 199210128–199210130
Type Facility: Miscellaneous Facilities—80 buildings; 1-story metal, concrete, block, wood, and brick structures including maintenance and storage bldgs., shops, warehouses, sheds and a commissary.
Property Number: 199210131
Type Facility: Facility 1506—24,000 sq. ft., 1-story brick dining hall.
Property Number: 199210132
Type Facility: Facility 3000—345,186 sq. ft., 5-story concrete hospital.
Property Number: 199210133
Type Facility: Bank/Credit Union—2 buildings; a 1-story concrete bank and a 2-story brick credit union.
Property Number: 199210134
Type Facility: Facility 1838—8790 sq. ft., 1-story brick chapel.
Property Number: 199210135
Type Facility: Facility 1845—9967 sq. ft., 1-story brick theater.
Property Number: 199210136
Type Facility: Fuel Stations—2 buildings; 1-story metal and brick/metal vehicle fuel and exchange service stations.
Property Number: 199210137
Type Facility: Hazardous Storage and Igloos—40 buildings; 4 metal and concrete block hazardous storage bldgs. and 36 concrete igloo storage bldgs.
Property Number: 199210138
Type Facility: Airport Related Areas—26 areas; approximately 205 acres including runways, aprons, taxiways and pads.

Texas—Naval Air Station, Chase Field

Chase Field Naval Air Station is located in Beeville, Texas 78103. All the properties will be excess to the needs of the Department of Navy on or about October 1993. Properties shown below as suitable/available will be available at that time.

The base covers approximately 1,866 acres and has over 430 housing units and government-owned buildings. The properties that HUD has determined

suitable and which are available include on- and off-base housing; administration buildings; recreational facilities; dining facilities; warehouses; a hospital; industrial and other specialized structures. All properties may need routine maintenance.

Suitable/Available Properties

Property Numbers: 779210001–779210003, 779210006
Type Facility: Housing—208 off-base capehart residences; 2 bedrooms/1 bath; 54 off-base family residences, 1 & 2 bedrooms/1 & 2 story; 19 on-base capehart residences, 1 & 2 bedrooms; brick/wood frame; 5 bachelor quarters, 16,800 to 62,200 sq. ft., 3 story metal/brick frame.
Property Number: 779210004
Type Facility: Recreational—3; 2,100 to 13,900 sq. ft.; 1 story concrete masonry frame; includes a theatre, bowling center, and racquetball.
Property Number: 779210005
Type Facility: Dining Halls—4 buildings; 6,000 to 21,900 sq. ft.; 1 story concrete masonry frame.
Property Number: 779210007
Type Facility: Administration—9 buildings; 1,300 to 29,500 sq. ft.; 1 and 2 story; concrete masonry frame.
Property Number: 779210008
Type Facility: Hospital (clinic)—31,000 sq. ft.; 1 story brick/concrete masonry frame.
Property Numbers: 779210009, 779210012
Type Facility: Miscellaneous—7 buildings; 900 to 55,600 sq. ft.; 1 and 2 story; wood and concrete masonry frame; includes fire/security buildings.
Property Number: 779210011
Type Facility: Industrial—16 buildings; 200 to 10,900 sq. ft.; 1 story metal/concrete masonry frame.
Property Numbers: 779210013–779210014
Type Facility: Aircraft/Air Traffic Control—8 buildings; 3,200 to 89,300 sq. ft.; 1 and 2 story; concrete masonry and metal frame; some bldgs. used for storage and aircraft maintenance.

Unsuitable Properties

Property Number: 779210015
Type Facility: Building 2137, Aircraft Hangar; within 2,000 ft. of flammable or explosive material.
Property Number: 779210016
Type Facility: Building 1032, Warehouse; structural deterioration.

[FR Doc. 92–6948 Filed 3–26–92; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–080–02–4410–03]

Book Cliffs Resource Area, UT; Resource Management Plan

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice of intent to amend the 1984 Book Cliffs Resource Management Plan.

SUMMARY: This Notice of Intent is to advise the public of a possible amendment to the Book Cliffs Resource Area Management Plan of 1984. The plan includes land located within Uintah County in northeastern Utah.

The purpose of the amendment would be to consider whether a new transportation corridor should be established that would allow granting the applicant's preferred alternative for a right-of-way for the Uintah County portion of the proposed Ouray to Cisco Highway. The highway is a joint proposal of the Uintah Country Special Services District and the Grand County Roads Special Service District #1. The proposed highway is intended to serve energy development in the area and provide a more direct north-south route through the eastern part of the State of Utah.

The Book Cliffs Resource Management Plan (RMP) provides for a transportation corridor following the alignment of the present Seep Ridge Road. However, the alignment preferred by the Uintah County Special Services District would deviate from that corridor by turning west down Pine Springs Canyon, crossing Main Canyon, and then going south for about five miles through the Winter Ridge Wilderness Study Area (WSA). Another alternative would go up Main Canyon and tie into existing roads that would avoid the WSA. Both of these two alternatives would require amendment of the RMP to establish new transportation corridors.

Congressional action would be required before a right-of-way could be approved through the Winter Ridge WSA. Without such Congressional action, the RMP would not be amended to establish a transportation corridor through the WSA.

An Environmental Impact Statement (EIS) is being prepared for the entire highway project. This EIS will also serve as the National Environmental Policy Act Compliance Document for amending the 1984 Book Cliffs Resource Management Plan.

Existing planning documents are available at the Book Cliffs Resource Area Office, 170 South 500 East, Vernal, Utah 84078.

FOR FURTHER INFORMATION CONTACT: Paul Andrews, Book Cliffs Area Manager, (801) 789–1362.

Dated: March 19, 1992.

David E. Little,

Vernal District Manager.

[FR Doc. 92–7064 Filed 3–26–92; 8:45 am]
BILLING CODE 4310–DQ–M

[OR–050–4410–08:GP2–188]

Brothers-LaPine Resource Management Plan Amendment, Prineville District, Deschutes County, OR

March 19, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a Category I Amendment to the Brothers-LaPine Resource Management Plan.

1. Description of the Proposed Planning Action

To amend the Brothers-LaPine Resource Management Plan (RMP) completed in July 1989. The category I planning amendment will be based upon existing statutory requirements and policies and will carry the requirements of the Federal Land Policy and Management Act of 1976 (FLPMA). The RMP and Environmental Assessment (EA) to be prepared will provide the basis for modifying the Land Tenure section of the Resource Management Plan to provide specific direction for land exchanges and classifications involving the Recreation and Public Purposes Act. Specific issues involve the consideration to locate a shooting range on public lands and numerous other competing proposals such as a church/school complex, a performing arts center, a VFW Post, golf course, municipal effluent disposal area and parks.

The amendment will consider off-road vehicle use area designations and evaluate the direction of long-term grazing management in specific allotments.

In addition, the amendment will consider special management designations of unique ecological, geological and historical areas including old growth juniper woodlands throughout the planning area.

2. Identification of the Geographic Area Involved

The planning area involved within the Brothers-LaPine RMP is located in a

portion of northern Deschutes County. It involves about 80,000 acres of public lands in the Urban Interface around the communities of Bend, Redmond and Sisters.

3. General Types of Issues Anticipated

The proposed amendment would address changes in the following sections of the RMP: Land tenure, recreation, range, mineral materials and woodland forestry.

4. Disciplines to be Represented and Used to Prepare the RMP Amendment and Environmental Assessment Will be the Following

Lands, wildlife, botany, recreation, range, geology and forestry.

5. The Kind and Extent of Public Opportunities Provided

The public has been involved in an initial scoping meeting and has participated in the identification of issues. Public comments are being solicited during the development of the draft plan amendment with the scoping of issues and alternatives at this time. A public meeting will be held upon completion of the draft amendment. Comment periods will be announced in the **Federal Register** and in local newspapers. Oregon State and local government notification is being initiated.

6. Times, dates and locations scheduled or anticipated for public meetings, hearings, conferences or gatherings will be published in the local newspapers. All public input will be considered through written comments. The draft RMP amendment will be available for a 60-day public review period in the fall of 1992.

7. Name, Title, Address and Telephone Number of the Bureau of Land Management Official who may be Contacted for Further Information

Jim Kenna, Area Manager, 185 E. Fourth St., Prineville, Oregon 97754, phone 503–447–8757.

8. Location and Availability of Documents Relevant to the Planning Process

Documents will be available for public review at the Prineville District Office, 185 E. Fourth St., Prineville, Oregon 97754.

Dated: March 19, 1992.

James L. Hancock,

District Manager, Prineville District Office.

[FR Doc. 92–7066 Filed 3–26–92; 8:45 am]

BILLING CODE 4310–33–M

[CO–942–92–4730–12]

Colorado: Filing of Plats of Survey

March 17, 1992.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., March 17, 1992.

The plat representing the dependent resurvey of a portion of the north boundary, the subdivisional lines, and certain claim lines, the subdivision of section 5, the metes-and-bounds survey of lot 16, section 5, and the remonumentation of certain corners, T. 6 N., R. 95 W., Sixth Principal Meridian, Colorado, Group Nos. 595 and 945, was accepted January 16, 1992.

This survey was executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of a portion of the line between sections 23 and 24 and a portion of the center line of Soda Ridge Road, a metes-and-bounds survey of a portion of the center line of Soda Ridge Road in section 23, and a metes-and-bounds survey between certain lots in section 23 and 24, T. 5 S., R. 77 W., Sixth Principal Meridian, Colorado, Group No. 968, was accepted January 17, 1992.

The plat representing the dependent resurvey of the subdivisional line between sections 35 and 36 and a portion of Mineral Survey Number 6345 B, Polar Star Millsite and the east and west center line of section 35, T. 1 N., R. 72 W. Sixth Principal Meridian, Colorado, Group No. 992, was accepted January 21, 1992.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the retracement of the north two miles of the west boundary, the dependent resurvey of a portion of the north boundary of the Southern Ute Indian Reservation (south boundary of the Ute Ceded Lands), the south boundary, portions of the east and west boundaries, the subdivisional lines, and the subdivision of certain sections, T. 34 N., R. 11 W. (South of the Ute Line), New Mexico Principal Meridian, Colorado, Group Nos. 922 and 948, was accepted January 30, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Reclamation and the Bureau of Indian Affairs.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Gary L. Gibson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 92–7065 Filed 3–26–92; 8:45 am]

BILLING CODE 4310–JB–M

[NV–940–02–4212–22]

Filing of Plats of Survey; NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the latest filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing was effective at 10 a.m. on March 16, 1992.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6543.

SUPPLEMENTARY INFORMATION: 1. The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada on March 16, 1992:

Mount Diablo Meridian, Nevada

T. 13 N., R. 39 E.—Supplemental Plat of Survey, Section 34, SW¼.
T. 30 N., R. 48 E.—Supplemental Plat of Survey, Section 32.

2. These surveys were accepted February 24, 1992, and February 26, 1992, and were executed to meet certain administrative needs of the Bureau of Land Management.

3. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Robert G. Steele,

Deputy State Director, Nevada.

[FR Doc. 92–7076 Filed 3–26–92; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Meeting, Klamath Fishery Management Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss et seq.). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 1 p.m. to 9 p.m. on Sunday, April 5, 1992.

ADDRESSES: The meeting will be held at the Clarion Hotel (Sausalito B Conference Room), 401 E. Millbrae Avenue, Millbrae, California.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main, Suite 212), Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Management Council, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639). The principal agenda item will be providing comment to the Pacific Fishery Management Council on options for 1992 ocean salmon management. The Klamath Fishery Management Council will review the 1992 harvest plans impacting spring chinook and hear updates on water management in the Klamath and Trinity Rivers. Public comment will be received at 4 p.m.

Dated: March 18, 1992.

David L. McMullen,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–7068 Filed 3–26–92; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Invs. Nos. 701–TA–309 and 731–TA–528 and 529 (Final)]

Revised Schedule; Magnesium From Canada and Norway

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: March 11, 1992.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: On February 18, 1992, the Commission instituted the subject antidumping investigations and issued a revised schedule to be followed in the subject countervailing duty investigation.[1] Subsequently, the U.S. Department Commerce (Commerce) extended the date for its final determinations in these investigations from April 27, 1992.[2] The Commission, therefore, is revising its schedule in these investigations to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: The prehearing staff report will be placed in the nonpublic record on April 30, 1992; requests to appear at the hearing must be filed with the Secretary to the Commission not later than May 11, 1992; the deadline for filing prehearing briefs is May 13, 1992; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 15, 1992; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on May 19, 1992; and the deadline for filing posthearing briefs is May 28, 1992. Section 735(b)(2) of the Tariff Act of 1930 [3] directs the Commission to make final determinations within 120 days after notification of Commerce's preliminary determinations or within 45 days after notification of Commerce's final determinations, whichever date is later, which in this case is July 1, 1992.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E,[4] and part 207, subparts A and C.[5]

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: March 23, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–7085 Filed 3–26–92; 8:45 am]

BILLING CODE 7020–02–M

[1] 57 FR 7790, Mar. 4, 1992.
[2] 57 FR 8860, Mar. 13, 1992.
[3] 19 U.S.C. 1673d(b)(2).
[4] 19 CFR part 201.
[5] 19 CFR part 207.

[Investigation No. 337–TA–336; Order No. 6]

Certain Single In-Line Memory Modules and Products Containing Same

On March 10, 1992, respondents filed a joint motion to designate the investigation more complicated for the purpose of adjudicating complainant's motion for temporary relief [Motion No. 336–6]. The motion is opposed by the complainant but supported by the Commission investigative attorneys.

The part of the investigation involving temporary relief is designated more complicated on the basis of the complexity of issues relating to whether there is reason to believe that the respondents have violated section 337 and whether temporary relief is appropriate. A number of complex issues have been raised in this proceeding that were not litigated in the district court proceeding, such as the issue relating to JEDEC and equitable estoppel, the express and implied licensing defenses, and the separate patent infringement defenses of each respondent. Respondents indicate that depositions will have to be heard at the rate of four or more a day if the investigation is not designated more complicated. This pace would make the proof of even simple issues complex.

It is proposed that the hearing commence on April 27. The parties can submit proposed schedules for deadlines before the hearing and indicate how much time each party would like to have to present its own case and to cross-examine opposing witnesses at the hearing. Respondents will be asked to join together to present their cases relating to validity, enforceability and equitable estoppel.

It is ordered that proposed schedules for the hearing and deadlines before the hearing be submitted to this office by March 18, 1992.

Motion 336–6 is granted.

The Secretary is requested to publish this Order in the **Federal Register.**

Issued: March 16, 1992.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 92–7086 Filed 3–26–92; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Brunswick Corporation, a Delaware corporation, One Brunswick Plaza, Skokie, Illinois 60077.

2. Wholly owned subsidiary which will participate in the operations: Sea Ray Boats, Inc., a Tennessee corporation.

B. 1. Super Valu Stores, Inc., P.O. Box 990, Minneapolis, MN 55440.

2. Subsidiaries:

	State of Incorporation
Preferred Products, Inc.—Chaska, MN.	Minnesota.
Ohiocubco—Eden Prairie, MN	Ohio.
Valu Transportation, Inc.—Eden Prairie, MN.	Minnesota.
Twin Valu Stores, Inc.—Eden Prairie, MN.	Minnesota.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-7110 Filed 3-26-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32032]

South Orient Railroad Company, Ltd.—Trackage Rights Exemption—Southern Pacific Transportation Co.

Southern Pacific Transportation Company has agreed to grant overhead trackage rights to South Orient Railroad Company, LTD., over approximately 11.4 miles of rail line between milepost 608.46, near Alpine Junction, Brewster County, TX, and milepost 619.64, near Paisano, Presidio County, TX. The exemption became effective on March 12, 1992.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Jack L. Coke, Jr., 800 Preston Commons West, 8117 Preston Road, Dallas, TX 75225.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Tracking Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: March 20, 1992.

By the Commission, David M. Konschnick, Director, Office of Proceedings.

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 92-7109 Filed 3-26-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Controlled Substances: Proposed 1992 Aggregate Production Quota for Normorphine

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of a proposed 1992 aggregate production quota.

SUMMARY: This notice proposes a 1992 aggregate production quota for normorphine, a Schedule I controlled substance.

DATES: Comments or objections must be received on or before April 27, 1992.

ADDRESSES: Send comments or objections to the Administrator, Drug Enforcement Administration, Washington, DC 20537, Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183 .

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (CSA), (21 U.S.C. 826) requires that the Attorney General establish on an annual basis aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the DEA pursuant to § 0.100 of title 28 of the Code of Federal Regulations.

Recently, the DEA received an application for a manufacturing quota for normorphine, a Schedule I controlled substance. The normorphine, is to be used to prepare analytical standards.

The Administrator of the DEA, under the authority vested in the Attorney General by section 306 of the CSA of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of title 28 of the Code of Federal Regulations, hereby proposes the 1992 aggregate production quota for normorphine, expressed in grams of anhydrous base.

Basic class	Proposed 1992 aggregate production Quota (grams)
Normorphine	2

All interested persons are invited to submit comments or objections in writing regarding this proposal. Comments or objections should be submitted to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative, and must be received by April 27, 1992. If a person raises one or more issues which that person believes would warrant a hearing, that individual should so state and summarize the reason for this belief.

In the event that comments or objections to this proposal raise one or more issues, which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to sections (3)(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual production quotas for Schedules I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Dated: February 6, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-7123 Filed 3-26-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration/Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, 20210.

Corrections to General Wage Determination Decisions

Pursuant to the provisions of the Regulations set forth in title 29 of the Code of Federal Regulations, part 1, § 1.6(d), the Administrator of the Wage and Hour Division may correct any wage determination that contains clerical errors.

Corrections being issued in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are indicated by Volume and are included immediately following the transmittal sheet(s) for the appropriate Volume(s).

Volume II:

Wage Decision No. IL91-2, Modification No. 2 through 5
Wage Decision No. MN90-7, through Modification No. 4
Wage Decision No. MN90-8, through Modification No. 2
Wage Decision No. MN90-15, through Modification No. 2
Wage Decision No. MN91-7, through Modification No. 3
Wage Decision No. MN91-8, through Modification No. 2
Wage Decision No. MN91-15, through Modification No. 3

Pursuant to the Regulations, 29 CFR part 1, § 1.6(d), such corrections shall be included in any bid specifications containing the wage determinations, or in any on-going contracts containing the wage determinations in question, retroactively to the start of construction.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers(s).

Volume III:

Nevada:
NV91-7 (Feb. 22, 1991)..... p.All

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

Florida:
FL91-9 (Feb. 22, 1991)..... p.121, p.122
Georgia:
GA91-3 (Feb. 22, 1991)..... P.All
GA91-32 (Feb. 22, 1991)..... p.All
Mississippi:
MS91-21 (Feb. 22, 1991)..... p.All
MS91-23 (Feb. 22, 1991)..... p.All
MS91-24 (Feb. 22, 1991)..... p.All
MS91-26 (Feb. 22, 1991)..... p.All
MS91-27 (Feb. 22, 1991)..... p.All
New York:
NY91-2 (Feb. 22, 1991)..... p.777, pp.778-796a
Pennsylvania:
PA91-5 (Feb. 22, 1991)..... p.995, p.996
PA91-6 (Feb. 22, 1991)..... p.1007, p.1008
PA91-8 (Feb. 22, 1991)..... p. 1029, p.1030
PA91-9 (Feb. 22, 1991)..... p.1039, p.1040
PA91-14 (Feb. 22, 1991)..... p.1063, pp.1064-1065
PA91-15 (Feb. 22, 1991)..... p.1073, p.1074

Volume II:

Illinois:
IL91-1 (Feb. 22, 1991)..... p.69, pp.70, 72-77,79

IL91-9 (Feb. 22, 1991) p.153, p.155

Volume III:

Colorado:
CO91-2 (Feb. 22, 1991) p.159, p.160
CO91-3 (Feb. 22, 1991) p.163, p.164

Montana:
MT91-2 (Feb. 22, 1991) ..... p.All

Nevada:
NV91-1 (Feb. 22, 1991) p.299, pp.300-320d

Utah:
UT91-10 (Feb. 22, 1991) p.435
UT91-14 (Feb. 22, 1991) p.445
UT91-16 (Feb. 22, 1991) p.449

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 20th day of March 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-6967 Filed 3-26-92; 8:45 am]

BILLING CODE 4510-27-M

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is recieved by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the georgraphic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herin, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encourage to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Corrections to General Wage Determination Decisions

Pursuant to the regulations set forth in title 29 of the Code of Federal Regulations, part 1, § 1.6(d), the Administrator of the Wage and Hour Division may correct any wage determination that contains clerical errors.

Corrections being issued in the Governmnent Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are indicated by volume and are included immediately following the transmittal sheet(s) for the appropriate volume(s).

Volume II

Wage Decision No. IL91-2, Modification No. 2 through 5
Wage Decision No. MN90-7, through Modification No. 4
Wage Decision No. MN90-8, through Modification No. 2
Wage Decision No. MN90-15, through Modification No. 2
Wage Decision No. MN91-7, through Modification No. 3
Wage Decision No. MN91-8, through Modification No. 2
Wage Decision No. MN91-15, through Modification No. 3.

Pursuant to the regulations, 29 CFR part 1, § 1.6(d), such corrections shall be included in any bid specifications containing the wage determinations, or in any on-going contracts containing the wage determinations in question, retroactively to the start of construction.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers(s).

Volume III

Nevada:
NV91-7 (MAR 27, 1992)..... p. All.

Modifications to General Wage Determination Decisions

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Volume I

Florida:
FL91-9 (FEB. 22, 1991)..... p.121, p. 122.
Georgia:
GA91-3 (FEB. 22, 1991)..... p. All.
GA91-32 (FEB. 22, 1991)..... p. All.
Mississippi:
MS91-21 (FEB. 22, 1991)..... p. All.
MS91-23 (FEB. 22, 1991)..... p. All.
MS91-24 (FEB. 22, 1991)..... p. All.
MS91-26 (FEB. 22, 1991)..... p. All.
MS91-27 (FEB. 22, 1991)..... p. All.
New York:
NY91-2 (FEB. 22, 1991)..... p. 777, pp. 778-796a .
Pennsylvania:
PA91-5 (FEB. 22, 1991)..... p. 995, p. 996.
PA91-6 (FEB. 22, 1991)..... p. 1007, p. 1008.
PA91-8 (FEB. 22, 1991)..... p. 1029, p. 1030.
PA91-9 (FEB. 22, 1991)..... p. 1039, p. 1040.
PA91-14 (FEB. 22, 1991)..... p. 1063, pp. 1064-1065.
PA91-15 (FEB. 22, 1991)..... p. 1073, p. 1074.

Volume II

Illinois:
IL91-1 (FEB. 22, 1991)..... p. 69, pp. 70,72-77,79.
IL91-9 (FEB. 22, 1991)..... p. 153, p. 155, p. 155.

Volume III

Colorado:
CO91-2 (FEB. 22, 1991)..... p. 159, p. 160.
CO91-3 (FEB. 22, 1991)..... p. 163, p. 164.
Montana:
MT91-2 (FEB. 22, 1991)..... p. All.
Nevada:
NV91-1 (FEB. 22, 1991)..... p. 299, pp. 300-320d..
Utah:
UT91-10 (FEB. 22, 1991)..... p. 435.
UT91-14 (FEB. 22, 1991)..... p. 445.
UT91-16 (FEB. 22, 1991)..... p. 449.

General Wage Determination Publication

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Signed at Washington, DC this 24th day of March 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-7135 Filed 3-26-92; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Meeting; Theater Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Theater Companies Task Force Section) will be held on April 13-14, 1992 from 9:30 a.m.-5:30 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics will be opening remarks and discussion of issues involving professional theater companies.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 92-7117 Filed 3-26-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-220]

Niagara Mohawk Power Corp.; Nine Mile Point Nuclear Station, Unit No. 1; Exemption

I.

Niagara Mohawk Power Corporation (NMPC or the licensee) is the holder of Facility Operating License No. DPR-63, which authorizes operation of Nine Mile Point Nuclear Station Unit No. 1 (the facility or NMP1), at a steady-state reactor power level not in excess of 1850 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Oswego County, New York. The license provides among other things, that it is subject to all rules, regulations and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II.

Appendix J to 10 CFR part 50 requires that primary reactor containments shall meet certain containment leakage test requirements. Among these are the requirements that containment isolation valves receive local leak rate tests (Type C) and the results of all of the Type C tests are to be added to the results of the Type B tests and the combined leakage rate shall be less than 0.60 La.

III.

By letter dated December 12, 1991, NMPC requested a schedular exemption for Nine Mile Point Nuclear Station Unit No. 1 from the requirements set forth in 10 CFR part 50, appendix J, for four shutdown cooling isolation valves (38-

01, 38–02, 38–12, and 38–13) and four emergency condenser condensate return line valves (39–03, 39–04, 39–05, and 39–06). Specifically, NMPC requested temporary relief from the requirement that leakage of these eight valves be included in the 0.60 La acceptance criteria for the Type B and Type C tests, for the period up to and including NMP1's 1994 refueling outage.

Appendix J to 10 CFR part 50 was published on February 14, 1973, subsequent to the licensing of NMP1. The licensee has, in the past, not included the eight valves in the containment Leak Test Program, because they were not viewed as containment isolation valves under design accident conditions. However, the NRC staff's safety evaluation dated May 6, 1988, determined that these valves should be included in the appendix J program and be local leak rate tested.

By letters dated June 23, 1988, and November 22, 1988, NMPC requested a schedular exemption from certain requirements of appendix J, regarding leak testing of the emergency condenser condensate return line valves and the shutdown cooling isolation valves, respectively. NMPC stated that in order to leak test these valves a number of system changes would be necessary. The check valves, which were not designed for low pressure testing, may need to be replaced if they cannot be repaired or modified to consistently meet the required leakage rate. Additionally, leak-tight block valves and test taps may need to be installed in order to perform appropriate appendix J tests. NMPC requested relief until the next refueling outage, which was scheduled for 1990, to make the necessary system changes. However, due to NMP1's extended time out of service, the next refueling outage was rescheduled to 1992. The NRC staff granted the temporary exemption on October 17, 1988, for the emergency condenser condensate return line valves and on August 29, 1989, for the shutdown cooling isolation valves.

The NMP1 reactor vessel is currently scheduled to be drained during the 1994 refueling outage in order to perform inspections and modifications. The appendix J modifications, if performed during the 1992 outage, would also require the vessel to be drained. Therefore, NMPC has requested an extension to the schedular exemption so that the appendix J modifications may be included with the inspections and modifications of the reactor vessel currently scheduled for 1994.

IV.

The licensee's submittal restated the information that had been provided by letters dated June 23, 1988, and November 22, 1988, and concluded that the information would remain valid for the extended time period. This information formed the basis for the NRC staff's evaluations dated October 17, 1988, and August 29, 1989. Because the information provided on December 12, 1991, has not changed, the evaluations prepared by the NRC staff are still valid and extending the exemption would not cause undue risk to the public health and safety.

The NRC staff believes that special circumstances exist that warrant extending the approved exemption. A chemical decontamination of the reactor vessel significantly reduces radiation exposure to those individuals working in the area where the decontamination has taken place but there is a certain exposure to personnel performing the chemical decontamination. Therefore, the anticipated exposure to personnel must be greater than the exposure associated with the chemical decontamination.

The exposure associated with the appendix J modifications currently scheduled for the 1992 refueling outage does not support a chemical decontamination of the reactor vessel. However, if this activity is combined with inspections and modifications currently scheduled for the 1994 outage, then a chemical decontamination of the reactor vessel can be supported. This would result in reducing the overall dose to licensee personnel when compared to the same work performed over two outages without a chemical decontamination of the reactor vessel.

Another advantage to deferring the appendix J modifications to 1994 would be that the reactor vessel would only need to be drained once. The reactor vessel is currently scheduled to be drained during the 1994 outage to perform inspections and modifications. The appendix J modifications require the vessel to be drained. Deferring these modifications until 1994 will reduce the volume of radwaste generated since the additional draining of the vessel will be avoided.

By letter dated January 27, 1992, NMPC committed to perform a water test on the emergency condenser condensate return isolation valves' penetration and each shutdown cooling isolation valve during NMP1's 1992 refueling outage to ensure that leakage does not exceed 5 gpm. If the 5 gpm limit is exceeded, actions will be taken to reduce leakage to less than 5 gpm. These water tests will confirm that the subject valves have not degraded to a point that could result in an unacceptable increase in the risk to the public health and safety.

V.

On the basis of the above evaluation, the NRC staff concludes that the requested extension to the temporary, schedular exemption from the Type C testing requirements of appendix J to 10 CFR part 50 for emergency condenser condensate return line valves 39–03, 39–04, 39–05, and 39–06 and shutdown cooling isolation valves 38–01, 38–02, 38–12, and 38–13 is justified and should be granted. The technical basis supports a delay for the period from the 1992 refueling outage up to and including the next refueling outage for NMP1. The valves will then be included in the 0.6 La acceptance criteria for Type B and C tests at the conclusion of the 1994 refueling outage.

For these reasons, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter dated December 12, 1991, as discussed above, is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and that special circumstances are present as set forth in 10 CFR 50.12(a)(2)(ii).

Pursuant to 10 CFR 51.32, the Commission has determined that granting of this Exemption will have no significant impact on the environment (January 23, 1992, 57 FR 2791). A copy of the licensee's request for exemption and supporting documentation is available for public inspection at the Commission's Public Document Room, 2120 L Street, Washington, DC 20555 and at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126. Copies may be obtained upon written request to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—I/II.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of March 1992.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92–7129 Filed 3–26–92; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

Annual Meeting of Commissioners

AGENCY: Presidents Commission on White House Fellowships.

ACTION: Notice of annual selection meeting of the President's Commission on White House Fellowships; closed to the public.

SUMMARY: Notice is hereby given that the annual selection meeting of the President's Commission on White House Fellowships will be held at Mt. Washington Conference Center, Baltimore, Maryland, May 28 through May 31, 1992, beginning at 5 p.m.

The annual selection meeting is part of the screening process of the White House Fellowships program. During this three-day meeting the applicants will be interviewed by members of the Presidential Commission. At the conclusion of this meeting, the Commissioners will recommend to the President those they propose be selected to serve as White House Fellows.

It has been determined by the Director of the Office of Personnel Management that because of the nature of the screening process, wherein personnel records and confidential character references must be used, which, if revealed to the public would constitute a clear invasion of the individual's privacy, the content of this meeting falls within the provisions of section 552b(c) of title 5 of the United States Code. Accordingly, this meeting is closed to the public.

DATES: The dates of the annual selection meeting of the President's Commission on White House Fellowships, which is closed to the public, are May 28–May 31, 1992.

FOR FURTHER INFORMATION CONTACT: Janet Kelliher, Administrative Officer, President's Commission on White House Fellowships, 712 Jackson Place, NW., Washington, DC 20503, (202) 395–4522.

Dated: March 17, 1992.

Elsa B. Thompson,

Director, President's Commission on White House Fellowships.

[FR Doc. 92–7087 Filed 3–26–92; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30505; File Nos. SR–DTC–91–22 and SR–DTC–91–23]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Changes Relating to the Elimination of Most Urgent Withdrawals

March 20, 1992.

On November 14, 1991 and November 29, 1991, pursuant to section 19(b) of the Securities Exchange Act of 1934, ("Act"),[1] The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") proposed rule changes (File Nos. SR–DTC–91–22 and SR–DTC–91–23) that would eliminate most urgent withdrawals. Notices of filing of the proposed rule changes were published in the Federal Register on December 16, 1991 and December 27, 1991, to solicit comments on the proposed rule changes from interested persons.[2] No comments were received. This order approves the proposals.

I. Description

DTC has filed two proposed rule changes relating to the elimination of urgent withdrawals. The first proposal (File No. SR–DTC–91–22) would eliminate most urgent withdrawals ("Certificate on Demand or COD") [3] for securities settling in DTC's Next Day Funds Settlement System ("NDFS").[4] DTC would continue to make available CODs in municipal bond issues that are eligible in the NDFS. The second proposal (File No. SR–DTC–91–23) would eliminate most CODs for corporate securities and municipal bond issues eligible in DTC's Same Day Funds Settlement System ("SDFS").[5] The proposed rule changes also would implement DTC's Rush Withdrawal Transfer ("RWT") service on a permanent basis.[6]

RWT essentially replaces the COD process whereby DTC would release certificates from its vault registered in DTC's nominee name and endorsed to the participant or in blank. The RWT service allows DTC to expedite the transfer of certificates to the participant's name or other name as the participant directs. Depending on the issue, its transfer agent, its registrar, and the agent's and registrar's locations, newly registered certificates for United States issues generally are available on a next-day basis.[7] Canadian issues generally are available in six days after DTC has received transfer instructions.

Participants may use DTC's Deposit and Withdrawal at Custodian ("DWAC") service in special situations.[8] Through DWAC, participants may make deposits and withdrawals directly with the transfer agent for issues that are evidenced by a balance certificate registered in the name of Cede and Co. and held by the transfer agent.[9] Upon receipt of a request to withdraw securities, DTC will make the necessary adjustments to the participant's account and to DTC's internal account to reflect the withdrawal and forward the participant's request to the appropriate DTC custodian.[10] If accepted, the

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[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release Nos. 30043 (December 6, 1991), 56 FR 65295; and 30104 (December 19, 1991), 56 FR 67109.

[3] A "COD" is a method of withdrawing securities certificates from DTC in which the certificate is released directly from DTC's vault. To make such a withdrawal, the participant first must certify that it has enough securities in its account to fill the request. The participant then completes a withdrawal request describing the securities (*i.e.*, CUSIP, amount, etc.) DTC fills the withdrawal request by delivering to the participant the same day (for most daytime requests) or the next day (for nighttime requests) certificates registered in DTC's nominee name, CEDE & Co., and endorsed to the participant or in blank.

[4] Participants may use DTC's Fast Automated Securities Transfer ("FAST") program to obtain a securities certificate in a timeframe comparable to CODs. Certificates withdrawn through FAST are transferred from DTC's nominee name, Cede & Co., to the participant's name or any other name given to the transfer agent by the participant and are ready for pick-up at DTC or at the transfer agent usually the same day but no later then the next business day.

[5] Currently, DTC receives twenty or fewer requests daily for CODs in municipal bonds eligible in DTC's SDFS. DTC receives requests routinely for CODs in municipal bond issues eligible in DTC's NDFS. DTC will continue to make available CODs for NDFS issues until participant demand diminishes to a level that would allow DTC gradually to phase-out the CODs. See DTC's Important Notice B–9591–91 (November 4, 1991).

[6] DTC is currently operating RWT on a pilot basis. On July 21, 1988, the Commission granted temporary approval of a proposed rule change, substantially the same as File No. SR–DTC–91–22, to gradually eliminate the COD service. Simultaneously, DTC introduced its RWT service on a pilot basis. See Securities Exchange Act Release Nos. 26960 (July 5, 1989), 54 FR 28135; and 27052 (July 31, 1989), 54 FR 31600.

[7] Under DTC's regular WT procedures, newly registered certificates would be available, depending on the issue, its transfer agent and the agent's location, one or two weeks after DTC has received WT transfer instructions.

[8] Securities Exchange Act Release No. 30283 (January 23, 1992), 57 FR 3658.

[9] Only FAST-eligible issues and certain other limited certificate issues are eligible for DWAC. Securities Exchange Act Release No. 30283.

[10] The withdrawal of securities using DWAC is subject to approval by the DTC custodian. For a more detailed description of DWAC, see Securities Exchange Act Release No. 30283.

custodian will notify DTC and DTC will notify the participant that the appropriate entries have been made. If the issue is certificated, the participant may collect its certificates from the custodian.

After requesting a RWT, participants also may telephone DTC's Expediting Department when the transfer is particularly time sensitive. In such a case, after receiving a request for an expedited transfer or withdrawal, the Expediting Department will contact the transfer agent to make the agent aware of the time sensitive nature of the transfer. The Expediting Department will routinely follow-up to ensure transfers have occurred as requested. In extraordinary circumstances, DTC's Expediting Department will attempt to accommodate participants with a COD to the extent that the denominations of certificates requested by the participant are held in DTC's vault, when a participant is unable to obtain a certificate (*e.g.*, when there is no current transfer agent for that particular issue), or in cases when DTC's WT, FAST, or DWAC transfer services cannot accommodate a participant's urgent need for a certificate.

II. Discussion

The Commission believes that DTC's proposed rule changes are consistent with the Act and, in particular, with Sections 17A(b)(3) (A) and (F).[11] The discontinuance of the COD service furthers the Congressional goals in section 17A(e) of the Act by reducing the movement of securities certificates among brokers and dealers, and promotes the goal of prompt and efficient clearance and settlement of securities transactions. Congress stated in section 17A(a)(1) of the Act that inefficient procedures for the clearance and settlement of securities transactions impose unnecessary costs on investors and that prompt and accurate clearance and settlement are necessary for investor protection.[12]

The proposed rule changes will encourage greater use of more efficient transfer services like RWT, DWAC, and FAST. The one-step transfer process offered by RWT, DWAC, and FAST are more efficient than the two-step (or more) COD process in which DTC endorses the certificate to the participant and the participant (or the person that ultimately receives the certificate) must send it to the transfer agent for transfer. Thus the proposals reduce the movement of physical securities consistent with section 17A(e) and facilitate the prompt and accurate clearance and settlement of securities transactions consistent with section 17A(b)(3)(A).

The proposals reduce both the risk and the cost associated with processing and storing certificates. The processing of certificates involves certain risks including the risk that certificates will be stolen or lost in transit or on DTC's premises. While DTC employs security measures designed to help minimize the risk of theft and maintains insurance designed to cover the cost of lost or stolen certificates,[13] the elimination of CODs will substantially reduce DTC's risk by reducing the movement from DTC's vault of securities endorsed in blank. DTC also will reduce the cost of storing and counting large amounts of certificates. Instead of storing large amounts of round lot certificates,[14] DTC can substitute these smaller denominated certificates for "jumbo" certificates. The Commission believes that by reducing the risks and costs associated with transferring and storing securities certificates, the proposal will facilitate the safeguarding of securities and funds under DTC's control or in DTC's possession consistent with section 17A(b)(3)(F).

The proposal will enable DTC to improve tracking of dividend and interest payments and reduce the amount of lost dividends and interest to participants. DTC receives dividend and interest distributions from issuers for redistribution to participants.[15] The amount of distributions received from the issuer is based on the aggregate of all participants' positions in that CUSIP on record date. When DTC releases certificates in blank or endorsed to a participant, DTC reduces the participant's position and DTC's inventory of physical certificates. If a participant or a customer of a participant fails to submit the certificate to the transfer agent prior to record date, DTC will be listed on the transfer agent's records as the record owner and DTC's aggregate positions in that CUSIP as shown on the transfer agent's records will be greater than DTC's inventory. This results in DTC receiving more of the distribution than expected. The proposed rule changes will eliminate one of the causes of such imbalances. In addition, the proposed rule changes will reduce participants' costs of researching and reconciling imbalances created by the failure to transfer securities from DTC's nominee name to the new owner's name.[16]

In the order temporarily approving the elimination of most CODs in DTC's NDFS, the Commission expressed concern that the implementation of RWT not disrupt the prompt and accurate clearance and settlement of securities transactions.[17] The Commission required DTC to monitor the certificate turnaround performance of all transfer agents participating in the RWT pilot program; to compile transfer agent turnaround statistics; and to solicit comments from transfer agents participating in the RWT service and report that information to the Commission.[18] The Commission required DTC to evaluate the statistics and other information it collected concerning transfer agent performance throughout the pilot period and use the information to determine the overall performance of the RWT service and transfer agents' individual performance.[19]

DTC has operated the RWT service on a pilot basis for over two years. DTC has represented to the Commission that during that time, DTC is not aware that any participant or any customer of a participant has suffered a financial loss from a failure to receive a timely

[11] 15 U.S.C. 78q–1(b)(3) (A) and (F) (1988).

[12] 15 U.S.C. 78q–1(a)(1) (1988).

[13] Securities Exchange Act Release No. 12853 (April 20, 1976), 41 FR 17823.

[14] A "round lot" is a unit of trading or a multiple thereof. On the NYSE, stocks are traded in round lots of 100 shares for active stocks and 10 shares for inactive ones. Bonds are traded in units of $1,000. The New York Institute of Finance, How the Stock Market Works (1988).

[15] DTC is the principal securities depository having in excess of 600 participants and holding most securities of companies represented in the Dow Jones Industrial Average and companies listed on the New York Stock Exchange ("NYSE").

[16] Because the certificate may be endorsed several times after DTC releases the certificate from its vault, DTC may not be able to determine who should receive the dividend or interest distributions. DTC researches the overpayment, including contacting the participant who withdrew the certificate, and if necessary, the participant's transferee in cases where these parties are known to DTC, but DTC is unable to resolve all unclaimed dividends and interest. As of December 31, 1991, DTC held over $104 million in unclaimed dividends and interest. Unclaimed dividends and interest are transferred to the appropriate state when required by abandoned property laws. Telephone conversation between Patricia H. Trainor, Associate Counsel, DTC, and Sonia G. Burnett, Attorney, Division of Market Regulation ("Division"), Commission (March 12, 1992).

[17] Securities Exchange Act Release No. 26960 (July 5, 1989), 54 FR 28135.

[18] *Id.*

[19] *Id.* As of December 1991, DTC's statistics show that DTC received 69% of RWTs handled by New York transfer agents within twenty-four hours after being submitted for transfer. Of the remaining RWTs handled by New York transfer agents, 88% were received within forty-eight hours; 94% were received within 72 hours. Transfer agents outside of New York City turned around 26% of RWTs within 24 hours; 75% within forty-eight hours; 90% within 72 hours.

withdrawal.[20] DTC does not expect that any participant will experience any inconvenience as a result of the elimination of CODs.[21] DTC's statistics indicate that the volume of CODs in SDFS-eligible issues currently averages twenty or fewer instructions per day. DTC believes that this indicates that participants no longer rely on urgent withdrawals to obtain corporate SDFS certificates.[22] DTC expects that in most cases participants will be able to anticipate their withdrawal needs sufficiently in advance to rely on ordinary WTs for their certificates. Moreover, DTC through its Expediting Department will withdraw certificates from its vault to the extent it has the appropriate denominations in cases when DTC's RWT, FAST, or DWAC transfer services are unable to accommodate a participant's urgent need for a certificate or if transfer services for an issue have been discontinued.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule changes are consistent with section 17A of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–DTC–91–22 and SR–DTC–91–23) be, and hereby are, approved.

[20] Letter from Patricia H. Trainor, Associate Counsel, DTC, to Sonia G. Burnett, Attorney, Division, Commission (March 11, 1992).

[21] DTC's analysis of statistics for transfer agent RWT turnaround for the period from July 1989 until the filing of this proposed rule change indicate that the average daily number of RWTs dropped during the course of the pilot program. DTC believes that this indicates that participants are able to better anticipate their withdrawal needs.

[22] Many of the SDFS issues are now predominantly book-entry-only ("BEO") issues. BEO securities are certificated securities that are evidenced by one balance certificate registered in the name of DTC's nominee. Beneficial owners generally cannot obtain negotiable certificates evidencing their ownership interests in BEO issues thereby eliminating the need for any type of certificate withdrawal for these issues. Of the issue types currently eligible in the SDFS system, medium-term notes ("MTN"), commercial paper, and auction-rate preferreds are solely BEO, municipal notes are almost entirely BEO, and many of the asset-backed securities ("ABS") and municipal variable-rate demand option ("VRDO") issues are BEO. This has significantly contributed to the sharp drop in SDFS withdrawals. In the NDFS, few withdrawals are needed because rules of the NYSE, the National Association of Securities Dealers and other self-regulatory organizations now require, in general, that all deliveries of securities made against full payment in depository-eligible securities be settled by book-entry.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–7122 Filed 3–26–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18620; 812–7059]

Prudential-Bache IncomeVertible Plus Fund, Inc., et al.; Application

March 20, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Prudential-Bache IncomeVertible Plus Fund, Inc., (d/b/a Prudential IncomeVertible Plus Fund), Prudential California Municipal Fund, Prudential-Bache Equity Fund, Inc., Prudential Equity Income Fund, Prudential Flexifund, Prudential Global Fund, Inc., Prudential-Bache Global Genesis Fund, Inc., Prudential-Bache Global Natural Resources Fund, Inc., Prudential-Bache GNMA Fund, Inc., Prudential-Bache Government Plus Fund, Inc., Prudential Government Securities Trust, Prudential Growth Fund, Inc., Prudential-Bache Growth Opportunity Fund, Inc., Prudential-Bache High Yield Fund, Inc., Prudential Intermediate Global Income Fund, Inc., Prudential Institutional Liquidity Portfolio, Inc., Prudential-Bache MoneyMart Assets, Inc., Prudential Multi-Sector Fund, Inc., Prudential Municipal Bond Fund, Prudential Municipal Series Fund, Prudential-Bache National Municipals Fund, Inc., Prudential-Bache Option Growth Fund, Inc. (d/b/a Prudential Total Return Fund), Prudential-Bache Short Term Global Income Fund, Inc., Prudential-Bache Special Money Market Fund, Inc., Prudential-Bache Strategic Income Fund, Inc., Prudential-Bache Structured Maturity Fund, Inc., Prudential-Bache Tax-Free Money Fund, Inc., Prudential U.S. Government Fund, Prudential-Bache Utility Fund, Inc., Command Government Fund, Command Money Fund, Command Tax-Free Money Fund, Nicholas-Applegate Fund, Inc. (collectively, the "Funds"), Prudential Securities Incorporated ("PSI"), Prudential Mutual Fund Management, Inc. ("PMF"), and Prudential Mutual Fund Distributors, Inc. ("PMFD").

RELEVANT ACT SECTIONS: Order requested under section 6(c) exempting applicants from sections 13(a)(2), 18(a), 18(c), 18(f)(1), 22(f), 22(g), and 23(a), and pursuant to section 17(d) and rule 17d–1 thereunder permitting certain joint transactions.

SUMMARY OF APPLICATIONS: Applicants seek an order under sections 6(c) and 17(d) of the Act and rule 17d–1 thereunder that would amend existing orders that permitted certain open-end investment companies to offer their directors who are not interested persons within the meaning of section 2(a)(19) of the Act ("Non-Interested Directors") a deferred compensation plan. The requested order would extend the relief to additional open-end investment companies ("Mutual Funds") and certain closed-end investment companies ("Closed-End Funds"), provide participating Non-Interested Directors of the Mutual Funds with a choice as to the rate of return earned on their deferred fees and, in certain instances, allow each Mutual Fund to purchase its own shares in order to fund the deferred compensation plan.

FILING DATES: The application was filed on June 30, 1988 and amended on April 20, 1989 and January 31, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 14, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, One Seaport Plaza, New York, New York 10292.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, at (202) 272–2190 or Barry D. Miller, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

[23] 17 CFR 200.30–3(a)(12).

Applicants' Representations

1. PMF acts as manager or administrator and PMFD or PSI acts as distributor for the Prudential Funds (as defined below). PMF is registered as an investment adviser under the Investment Advisers Act (the "Advisers Act"). PMFD is a registered broker-dealer under the Securities Exchange Act of 1934 ("Exchange Act"). PSI is registered as an investment adviser under the Advisers Act and as a broker-dealer under the Exchange Act.

2. Prudential-Bache IncomeVertible Plus Fund, Inc., an open-end investment company, and any other open-end investment company for which PSI serves as administrator, manager, distributor or principal underwriter (the "Prudential Mutual Funds") previously received an exemptive order that was later amended permitting applicants to adopt a deferred compensation plan if authorized by their respective board of directors. (See Investment Company Act Release Nos. 15178 (June 27, 1986) (notice) and 15224 (July 24, 1986) (order); 15543 (Jan. 16, 1987) (notice) and 15573 (Feb. 12, 1987) (amended order) (the "Prior Orders")).

3. Currently, each Prudential Mutual Fund Pays their Non-Interested Directors fees, plus reimbursement for travel and incidental expenses ("Director's Fees"). Under the Prior Orders, each Non-Interested Director of a Prudential Mutual Fund may elect to defer receipt of all or a portion of the Director's Fees payable for services performed after the date of the election. The amounts deferred would accrue a return at a daily rate equivalent to the rate for 90-day U.S. Treasury bills determined each calendar quarter on a prospective basis (the "T-Bill Rate"). In addition, amounts to be paid by a fund pursuant to the deferred fee arrangement may not be funded by the purchase of shares in any Prudential Mutual Fund nor by the establishment of any special fund or separate account.

4. Applicants request that the Prior Orders be amended to apply to the Funds, to any Mutual Fund or Closed-End Fund organized presently or in the future for which PSI, PMF, PMFD, or any successors thereof, serve as principal underwriter, manager, administrator or investment adviser (collectively, with the Funds, the "Prudential Funds") and whose board of directors authorizes it to adopt a deferred compensation agreement substantially similar to the agreement attached to the application (the "Deferred Compensation Plan"), and to any Non-Interested Director of a Prudential Fund.

5. Applicants also seek to modify the Prior Orders to provide Non-Interested Directors of the Mutual Funds with the choice of earning a rate of return on their deferred fees equal to either (i) the T-Bill Rate or (ii) the rate of return earned on the shares of the Mutual Fund on whose board the director serves (the "Fund Rate"). The Fund Rate is equal to the rate of return (positive or negative) earned on shares of the relevant Mutual Fund had the director's deferred fees been invested in such shares. Accordingly, when the Fund Rate is in effect, the income, realized gain or loss on investments or unrealized appreciation or depreciation of a Mutual Fund attributed to a director through the Deferred Compensation Plan would be identical in amount to the income, gain, loss, appreciation or depreciation which would be received by a stockholder of the respective Mutual Fund.

6. Finally, applicants seek to amend the Prior Orders to permit each Mutual Fund to purchase its own shares in order to fund any return earned on deferred fees where the Fund Rate is chosen. The amount of deferred Director's Fees invested in a Prudential Fund will not exceed the amount of Director's Fees earned by the director from that fund and may be invested solely in the fund on whose board the director serves. Any investment of deferred Director's Fees in a Prudential Fund shall be made in accordance with section 12(d)(1) of the Act. In addition, any shares acquired to fund payments on deferred Director's Fees (not including reinvested dividends and distributions) by a Mutual Fund having two classes of shares will be divided evenly between the two classes of shares. Non-Interested Directors of the Closed-End Funds will accrue a return on their deferred fees at the T-Bill Rate, and Closed-End Funds will not use the deferred fees to acquire their shares to fund the return earned on such fees.

Applicants' Legal Analysis

1. Applicants assert that extending the relief to Prudential Funds and to their Non-Interested Directors will benefit applicants and their shareholders. The deferral of Director's Fees will enhance the funds' ability to attract and retain directors of high caliber. The Deferred Compensation Plan permits the Non-Interested Directors to defer receipt of their compensation enabling them to defer payment of their income taxes on these fees or to accomplish other income management objectives.

2. Applicants content that the Deferred Compensation Plan possesses none of the characteristics of senior securities that led Congress to enact sections 13(a)(2), 18(a), 18(c), and 18(f)(1). All liabilities created by the Deferred Compensation Plan would continue to be offset by equal amounts of fund assets that would not otherwise exist if the fees were currently paid. The deferral of Director's Fees would not induce speculation by a fund. Participation in the Deferred Compensation Plan by the Prudential Funds and their Non-Interested directors would not affect the control of any Fund, confuse its stockholders, complicate the valuation of its shares, convey a false sense of safety, or be inconsistent with the theory of mutuality of risk.

3. Section 22(f) of the Act prevents restrictions on transferability or negotiability either not disclosed to the holder of the security or prohibited by Commission regulation. Since the proposed amendments to the Prior Orders will not affect the restrictions on transferability contained in the Deferred Compensation Plan, those restrictions continue to be consistent with the standards of section 6(c) of the Act.

4. Sections 22(g) and 23(a) prohibit an investment company from issuing any of its securities for services or for property other than cash or securities. Congress enacted these provisions to address concerns of potential dilution of equity and voting power resulting when securities are issued for assets that are not readily valued. Applicants assert that there will be no dilution of fund assets since the value of deferred Director's Fees are readily ascertainable. Applicants argue that interests in the plan may be viewed as issued in return for applicants' right to pay the fees on a deferred basis rather than in return for services. Finally, applicants contend that the total Director's Fees paid to each director will be *de minimis* relative to the total assets of each Prudential Fund. Consequently, the deferral and payment of Director's Fees will have a negligible impact on each fund's assets, liabilities, net assets, net income per share and shareholder's equity.

5. Section 17(d) and rule 17d–1 generally prohibit any joint enterprise, other joint arrangement, or profit-sharing plan between an affiliate of a registered investment company and the registered investment company unless such arrangement has been approved by the Commission. Section 17(d) and rule 17d–1 are designed to limit or prevent abuses caused by conflicts of interest between registered investment companies and their affiliates including directors. Applicants argue that given the interest of the directors in the financial health of the funds, participating in the Deferred

Compensation Plan and receiving the T-Bill Rate on their deferred fees will not create conflicts of interest between the directors and the Prudential Funds and their shareholders.

6. In addition, the Non-Interested Director will not have a claim on the profits of any participating Prudential Fund regardless of any return paid on deferred Director's Fees. Amounts accrued under the Deferred Compensation Plan will be general unsecured obligations, payable solely from the respective Prudential Fund's general assets and property, and the director will be a general unsecured creditor of such Prudential Fund. Applicants believe, therefore, that any return earned on the deferred Director's Fees and the purchase of its own shares by a Mutual Fund under the terms specified above would not be a joint transaction with a director on terms different from or less advantageous for the Mutual Fund than for the director within the meaning of section 17(d) and rule 17d-1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-7119 Filed 3-26-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25495]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 20, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 13, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Mississippi Power Company 70-7941

Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport, Mississippi 39501, a wholly owned electric public utility subsidiary company of The Southern Company, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(c) and 12(d) of the Act and Rules 42, 44, 50 and 50(a)(5) thereunder.

Mississippi proposes to issue a non-negotiable promissory note ("Note"), at any time on or before June 30, 1994, under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5), in connection with the issuance and sale by public instrumentalities of one or more series of pollution control revenue bonds ("Revenue Bonds") in an aggregate principal amount of up to $25 million.

The Revenue Bonds will be issued for the financing or refinancing of the costs of certain air and water pollution control facilities and sewage and solid waste disposal facilities at one or more of Mississippi's electric generating plants or other facilities located in various counties in the State of Mississippi. It is proposed that each such county or its appropriate instrumentality ("County") will issue its Revenue Bonds to finance or refinance the costs of the acquisition, construction, installation and equipping of said facilities at the plant or other facility located in its county ("Project").

The actual amount of Revenue Bonds to be issued by each County has not yet been determined, such amount will be based upon the cost of refunding outstanding bonds or the cost of the Project located in its jurisdiction.

It is proposed that the Revenue Bonds will mature from 1 to 40 years from the first day of the month in which they are initially issued and may, if it is deemed advisable for purposes of the marketability of the Revenue Bonds, be entitled to the benefit of a mandatory redemption sinking fund calculated to retire a portion of the aggregate principal amount of the Revenue Bonds prior to maturity.

Mississippi proposes to enter into a Loan or Installment Sale Agreement with the County ("Agreement") pursuant to each issue of the Revenue Bonds, and Mississippi may issue a Note therefor, or the County will undertake to sell the related Project to Mississippi. The proceeds from the sale of the Revenue Bonds will be deposited with a trustee ("Trustee") under an indenture to be entered into between the County and such Trustee ("Trust Indenture"), pursuant to which such Revenue Bonds are to be issued and secured, and will be applied by Mississippi to payment of the Cost of Construction (as defined in the Agreement) of the Project or to refund outstanding pollution control revenue obligations.

The Trust Indenture and the Agreement may give the holders of the Revenue Bonds the right, during such time as the Revenue Bonds bear interest at a fluctuating rate, to require Mississippi to purchase the Revenue Bonds from time-to-time, and arrangements may be made for the remarketing of any such Revenue Bonds through a remarketing agent. Mississippi also may be required to purchase the Revenue Bonds, or the Revenue Bonds may be subject to mandatory redemption, at any time if the interest thereon is determined to be subject to federal income tax. Also in the event of taxability, interest on the Revenue Bonds may be effectively converted to a higher variable or fixed rate, and Mississippi also may be required to indemnify the bondholders against any other additions to interest, penalties and additions to tax.

In order to obtain the benefit of ratings for the Revenue Bonds equivalent to the rating of Mississippi's first mortgage bonds outstanding under the indenture dated as of September 1, 1941 between Mississippi and Morgan Guaranty Trust Company of New York, as Trustee, as supplemented and amended ("Mortgage"), Mississippi may determine to secure its obligations under the Note and/or Agreement by delivering to the Trustee, to be held as collateral, a series of its first mortgage bonds ("Collateral Bonds") issued under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder. The aggregate principal amount of the Collateral Bonds would be equal to either: (1) The principal amount of the Revenue Bonds; or (2) the sum of such principal amount of the Revenue Bonds plus interest payments thereon for a specified period.

As a further alternative to, or in conjunction with, securing its obligations through the issuance of the Collateral Bonds, Mississippi may: (1) Cause an irrevocable letter of credit ("Letter of Credit") to be delivered to the Trustee; and/or (2) cause an insurance

company to issue a policy ("Policy") guaranteeing the payment of the Revenue Bonds. In the event that the either the Letter of Credit is delivered to the Trustee or the Policy is issued, Mississippi may also convey to the County a subordinated security interest in the Project or other property of Mississippi as further security for Mississippi's obligations under the Agreement and/or the Note. However, in the event that Mississippi is unable or determines not to issue the Collateral Bonds, deliver the Letter of Credit to the Trustee or cause the Policy to be issued, it proposes to guarantee the payment of the principal of, premium, if any, and interest of the Revenue Bonds.

Mississippi also proposes to issue and sell, at any time on or before June 30, 1994: (1) One or more series of its (a) first mortgage bonds ("Bonds"), having a maturity of not less than five nor more than 40 years, in an aggregate principal amount of up to $100 million and (b) preferred stock ("Preferred") in an aggregate par or stated value of up to $50 million. The Bonds will be issued pursuant to the Mortgage, as to be further supplemented, and sold for the best price obtainable, but for a price to Mississippi of not less than 98% nor more than 101¾% of the principal amount thereof, plus accrued interest (if any), which may be an adjustable interest rate determined on a periodic basis, or a fixed interest rate. The Bonds may be subject to a mandatory or optional cash sinking fund. Mississippi may enhance the marketability of the Bonds by purchasing an insurance policy to guarantee the payment when due of the Bonds.

Mississippi seeks authority to deviate from the redemption and dividend limitation provisions contained in the Commission's Statement of Policy Regarding First Mortgage Bonds and Preferred Stock (HCAR Nos. 13105 and 13106, February 16, 1956, as amended by HCAR Nos. 16369 and 16758, May 8, 1969 and June 22, 1970, respectively) with respect to the issuance of the Bonds and Preferred. Mississippi proposes to issue and sell the Bonds and Preferred under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder, should circumstances develop which make such exception in the best interest of Mississippi, its investors and consumers. Otherwise, Mississippi proposes to issue and sell the Bonds and Preferred under the competitive bidding procedures of Rule 50 of the Act as modified by the Commission's Statement of Policy dated September 2, 1982 (HCAR No. 22623).

Mississippi may use the proceeds from the sale of the Bonds and the Preferred to redeem or otherwise retire its outstanding first mortgage bonds, pollution control bonds and/or preferred stock, or along with other funds, to pay a portion of its cash requirements to carry on its electric utility business.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-7118 Filed 3-26-92; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 18621; 811-763]

Variable Stock Fund, Inc.; Application

March 20, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice or application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Variable Stock Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an Order declaring that it has ceased to be an investment company under the Act.

FILING DATE: The application was filed on February 24, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 14, 1992, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 361 Whitney Avenue, Holyoke, Massachusetts 01040.

FOR FURTHER INFORMATION CONTACT: C. David Messman, Senior Attorney, at (202) 272-2813 or Barry D. Miller, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company. On or about March 19, 1957, Applicant registered under the Act and filed a registration statement under the Securities Act of 1933. The registration statement became effective on or about April 15, 1957.

2. On October 28, 1991, Applicant's board of directors approved an Agreement and Plan of Reorganization (the "Plan") between Applicant and the T. Rowe Price Growth Stock Fund, Inc. (the "Growth Fund") pursuant to which the Growth Fund would acquire substantially all of the assets of Applicant in exchange for Growth Fund common stock. The combined proxy statement and prospectus was mailed to Applicant's shareholders on December 20, 1991. The Plan was approved at a special meeting of Applicant's shareholders held on January 22, 1992. Shareholders of Applicant received that number of full and fractional shares of the Growth Fund having an aggregate net asset value equal to the net asset value of the shareholders' shares of Applicant as of the close of business on January 24, 1992, the business day immediately preceding the closing of the reorganization.

3. As of January 24, 1992, the business day immediately preceding the effective date of the reorganization, Applicant had outstanding 966,947 shares, with a net asset value of $8.42 per share, for a total net asset value of $8,132,738. On January 27, 1992 Applicant sold its portfolio securities and substantially all of its other assets to the Growth Fund, less a reserve of approximately $1,424 in cash for the purpose of satisfying outstanding liabilities of Applicant. The shares of the Growth Fund received by Applicant in exchange for its assets were then distributed to its shareholders *pro rata* in accordance with their respective interests in Applicant. No brokerage fees were paid in connection with the reorganization.

4. Applicant and the Growth Fund each paid their own expenses associated with the reorganization. As of the date of the application, such expenses of Applicant totaled approximately $55,000, consisting principally of attorneys and auditors fees and proxy printing and solicitation expenses.

5. Articles of Transfer were filed and Articles of Dissolution will be filed on behalf of Applicant with the Maryland

State Department of Assessments and Taxation to effect the dissolution of Applicant as a Maryland Corporation.

6. As of the date of the application, Applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-7120 Filed 3-26-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18622; 811-4056]

Viking Money Market Fund, Inc.; Application

March 20, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Viking Money Market Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 10, 1991 and amended on February 11, 1992, and March 6, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 14, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 200 Gibraltar Road, Horsham, PA 19044.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company that was organized under the laws of Maryland. Applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act on June 22, 1984. A registration statement under the Securities Act of 1933 was filed on June 22, 1984. The registration statement was declared effective and the initial public offering commenced on October 22, 1984.

2. At a meeting held on December 18, 1990, applicant's board of directors adopted resolutions declaring advisable a proposed sale of substantially all of applicant's assets to CoreFunds, Inc. ("CoreFunds"). On or about April 5, 1991, applicant mailed proxy materials to its shareholders, who approved the proposal at a special shareholders' meeting held on May 15, 1991.

3. As of November 20, 1990, there were 190,100,860 shares of applicant's Fiduciary Portfolio outstanding, representing an aggregate net asset value of $190,100,860, and a per share value of $1.00. On December 3, 1990, CoreStates Bank (the "Bank"), the sole record shareholder of applicant's Fiduciary Portfolio, redeemed all outstanding shares of the Fiduciary Portfolio and in a separate transaction, purchased shares of CoreFunds Fiduciary Reserve. The Fiduciary Portfolio shares were sold by applicant's distributor, The Fairfield Group, Inc., only to affiliated and subsidiary banks of CoreStates Financial Corp. and other depository institutions and institutional investors acting on behalf of certain customers for which they exercised investment discretion. The funds invested by the Bank in the Fiduciary Portfolio consisted of assets held by the Bank's trust department for customers for whom the Bank acted as trustee, executor, administrator, guardian of estates, investment adviser or in any other fiduciary capacity which conferred investment discretion upon the Bank.

4. On May 30, 1991, applicant transferred all of its assets and liabilities of its Prime Obligations Portfolio to CoreFunds in exchange for shares of class A common stock of CoreFunds.[1] Immediately thereafter, applicant distributed the shares of class A common stock *pro rata* to its shareholders.

5. The expenses incurred in connection with the sale of applicant's assets were approximately $22,000 (legal—$20,000; accounting—$2,000), all of which were assumed by CoreFunds.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant has filed Articles of Dissolution with the Maryland Secretary of State.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-7121 Filed 3-26-92; 8:45 am]

BILLING CODE 8010-01-M

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[1] Accounting to CoreFunds Cash Reserve prospectus dated October 21, 1991, class A common stock represents an interest in CoreFunds Cash Reserve portfolio.

TENNESSEE VALLEY AUTHORITY

Acid Rain Program Designated Representative

AGENCY: Tennessee Valley Authority.

ACTION: Notice.

SUMMARY: TVA is announcing the selection of a "designated representative" and "alternate designated representative" to serve as the agency's point of contact with the U.S. Environmental Protection Agency and States on acid rain program matters.

FOR FURTHER INFORMATION CONTACT: Jerry L. Golden, Manager, Clean Air Program, 2C Missionary Ridge Place, 1101 Market Street, Chattanooga, Tennessee 37402-2801; (615) 751-6779.

SUPPLEMENTARY INFORMATION: Under title IV of the Clean Air Act Amendments, sec. 402, Public Law 101-549, 104 Stat. 2588, affected utility units are authorized to act through a "designated representative" (DR) and "alternate designated representative" (ADR) in the conduct of SO_2 allowance and acid rain permitting activities. On February 19, 1992, at a public meeting, the TVA Board of Directors selected TVA's Senior Vice President, Fossil and Hydro Power, J.W. Dickey, to be TVA's

DR for its affected utility units, and TVA's Vice President, Fossil and Hydro Projects, W.M. Bivens, to be TVA's ADR who will act when the DR is unavailable. TVA's affected utility units are those at its Allen, Bull Run, Cumberland, Gallatin, John Sevier, Johnsonville, Kingston, and Watts Bar fossil plants in Tennessee; Colbert and widows Creek fossil plants in Alabama; and Paradise and Shawnee fossil plants in Kentucky.

Dated: March 6, 1992.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 92-6154 Filed 3-26-92; 8:45 am]

BILLING CODE 8120-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD8 92-04]

Lower Mississippi River Waterway Safety Advisory Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II) notice is hereby given of a meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, April 21, 1992, in the 29th floor Boardroom of the World Trade Center, 2 Canal Street, New Orleans, Louisiana at 9 a.m. The agenda for the meeting consists of the following items:

1. Call to order.
2. Minutes of the January 14, 1992 meeting.
3. Old Business.
   a. Fishing Vessels Crossing Southwest Pass.
   b. Tows Changing Configuration in Southwest Pass.
4. New Business.
   a. Discussion of deletion of § 164.15 from the Code of Federal Regulations.
   b. Inconsistencies of the aids to navigation in the Mississippi River Gulf Outlet.
   c. Army Corps of Engineers proposal to eliminate the federal dredges and employ commercial dredges only.
5. Report from the VTS Subcommittee.
6. Adjournment.

The purpose of this Advisory Committee is to provide recommendations and guidance to the Commander, Eighth Coast Guard District on navigation safety matters affecting this waterway.

All meetings are open to the public. Members of the public may present written or oral statements at the meetings.

Additional information may be obtained from Commander E. N. Funk, USCG, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130-3396, telephone number (504) 589-3074.

Dated: March 13, 1992.

RADM J.M. Loy,

Commander, 8th Coast Guard District.

[FR Doc. 92-7131 Filed 3-26-92; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

RTCA, Inc.; Special Committee 162, Aviation Systems Design Guidelines for Open Systems Interconnection (OSI); Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C., appendix I), notice is hereby given for the seventeenth meeting of Special Committee 162 to be held April 13-14, 1992, in the RTCA conference room, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of minutes of the sixteenth meeting held December 4-6, 1991, RTCA paper no. 121-92/SC162-140 (previously distributed); (3) Reports of related activities being conducted by other organizations; (4) Review activities of the ATNI MASPS/MOPS Working Group; (5) Review status of Applications Guidance (Part 2) Document (in preparation); (6) Review status of Applications Programming Interface (Part 3) Document (in preparation); (7) Review status of Systems Security Guidance Document; (8) Review status of Systems Management Guidance Document; (9) Other business; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 19, 1992.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 92-7116 Filed 3-26-92; 8:45 am]

BILLING CODE 4910-13-M

Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Palm Springs Regional Airport, Palm Springs, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Palm Springs Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 27, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, Standards Section, AWP-621, P.O. Box 92007, WPC, Los Angeles, California 90009.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Allen F. Smoot, Director of Aviation of the City of Palm Springs at the following address: City of Palm Springs, 3200 E. Tahquitz Canyon, Palm Springs, California 92262.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Palm Springs under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: John P. Milligan, Supervisor, Standards Section, AWP-621, Federal Aviation Administration, P.O. Box 92007, WPC, Los Angeles, California 90009, Telephone: (310) 297-1029.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Palm Springs Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 16, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the city of Palm Springs

was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the approve the application, in whole or in part, no later than June 25, 1992.

The following is a brief overview of the application. Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1992.

Proposed charge expiration date: October 30, 2022.

Total estimated PFC revenue: $51.4 million.

Brief description of proposed project(s): Airport Terminal Expansion, Phase IA (approx. 43,158 sq. ft.) that includes expand baggage claim area, install temporary hold room area for passenger boarding gates, construct air-conditioned hold room area for commuter and charter operations, construct centralized control center for airport operations and access control system, remodel existing areas of terminal, remove asbestos and install seismic reinforcing in selected portions of existing terminal, install new passenger screening security check point, construct air carrier apron for three (3) additional parking positions and commuter aircraft apron for four (4) additional parking positions, construct an additional six (6) passenger boarding gates; Airport Terminal Expansion Phase IIA (approx. 63,121 sq. ft.) that includes install air-conditioned two-level concourse and hold rooms, construct second level boarding areas, install eight (8) boarding bridges, construct a central utilities plant, construct open-air patio for holding additional passengers during good weather. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi operations under Part 135.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at: Federal Aviation Administration, Western-Pacific Regional Headquarters, Airports Division, Room 3E23, 15000 Aviation Blvd., Hawthorne, California 90261.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Palm Springs.

Issued in Hawthorne, California on March 16, 1992.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 92-7115 Filed 3-26-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Intermodal Surface Transportation Efficiency Act of 1991; Electronic Access to Informal Implementation Guidance Via the FHWA Electronic Bulletin Board System

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: To assist in the implementation of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240, 105 Stat. 1914), the FHWA is making informal guidance on the ISTEA available on the FWHA Electronic Bulletin Board System (FEBBS). The information provided in the ISTEA conference on FEBBS shall be considered only as preliminary guidance on the implementation of the ISTEA and is subject to change. Members of the public may now dial into the FEBBS ISTEA information conference using a microcomputer and modem and view informal Questions and Answers on how the agency intends to implement the provisions of the ISTEA. This read-only facility is especially intended for use by the State and local transportation agencies. Specific questions on how the ISTEA will be implemented should be referred to the local FHWA division and regional offices. The telephone number for FEBBS is Area Code 202-366-3764. While the system supports 300, 1200 and 2400 baud line speeds, and a variety of terminal types and protocols, setting the modem for 2400 baud, 8 data bits, full duplex and no parity will give optimal performance. Once a connection has been established and the <R<egistration item completed, callers should select either <Q<uestions and Answers on ISTEA, or <I<nformation for more detailed help.

FOR TECHNICAL ASSISTANCE CONTACT: FHWA Computer Help Desk, HMS-40, room 4401, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-1120.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence I. Neff, HMS-40, room 4331, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9013. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for legal Federal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 20, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92-7083 Filed 3-26-92; 8:45 am]

BILLING CODE 4910-22-M

Federal Transit Administration

Environmental Impact Statement on East-West Corridor Transit Improvements in Milwaukee, WI

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and the Wisconsin Department of Transportation (WisDOT) are undertaking the preparation of an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA), for transit improvements in the East-West Corridor of Milwaukee and Waukesha counties. The local agency will ensure that the EIS also satisfies the requirements of the Wisconsin Environmental Policy Act (WEPA). In addition to the fixed guideway transit improvement alternatives, the EIS will evaluate the No-Action/Transportation System Management (TSM) alternative and any new alternatives generated through the scoping process. Scoping will be accomplished through correspondence with interested persons, organization, and federal, state and local agencies and through five public meetings.

DATES: *Comment due date:* Written comments on the scope of alternatives and impacts to be considered should be sent to WisDOT by April 20, 1992. *Scoping meetings:* Public scoping meetings will be held on Thursday, April 9, 1992 at 6 p.m. at the Zoofari Conference Center; Saturday, April 11, 1992 at 1 p.m. at Washington Park Senior Center; Tuesday, April 14, 1992 at 6 p.m. at University of Milwaukee Student Union; Wednesday, April 15, 1992 at 6 p.m. at Brookfield Town Hall; and Thursday, April 16, 1992 at 1 p.m. at War Memorial Center. See **ADDRESSES** below.

FOR FURTHER INFORMATION CONTACT: Mr. Joel Ettinger, Central Area Director, Federal Transit Administration, 55 East Monroe Street, Suite 1415, Chicago, Illinois 60603. Phone: (312) 353-2789.

ADDRESSES: Written comments on project scope should be sent to Mr. James Beckwith, Project Manager, Wisconsin Department of

Transportation, District No. 2, 141 NW Barstow Street, P.O. Box 649, Waukesha, Wisconsin 53187–0649. Scoping Meetings will be held at the following locations:

1. Zoofari Conference Center, 9715 W. Bluemound Road, Milwaukee, WI 53226.
2. Washington Park Senior Center, 4420 W. Vliet Street, Meeting Room, 1st Floor, Milwaukee, WI 53208.
3. University of Wisconsin-Milwaukee Student Union, 2200 E. Kenwood Boulevard, Wisconsin Room, 2nd Floor, Milwaukee, WI 53211.
4. Brookfield Town Hall, 645 Janacek Road, Meeting Room, 1st Floor, Brookfield, WI 53008.
5. War Memorial Center, 750 N. Lincoln Memorial Drive, Memorial Hall, 3rd Floor, Milwaukee, WI 53202.

SUPPLEMENTARY INFORMATION: *Scoping:* FTA and WisDOT invite interested individuals, organizations, and federal, state and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, or environmental issues related to the alternatives. An information packet describing the purpose of the project, the proposed alternatives, the impact areas to be evaluated, the citizen improvement program and the preliminary project schedule is being mailed to affected federal, state and local agencies and to interested parties on record. Others may request the scoping materials by contacting Mr. James Beckwith at the address above or by calling him at (414) 548–8675. Scoping comments may be made verbally at any of the public scoping meetings or in writing. See the **DATES** and **ADDRESSES** sections above for locations and times. During scoping, comments should focus on identifying specific social, economic or environmental impacts to be evaluated and suggesting alternatives which are less costly or less environmentally damaging while achieving similar transit objectives. Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Draft EIS has been completed. If you wish to be placed on the mailing list to receive further information as the project develops, contact Mr. James Beckwith as previously described.

Description of Study Area and Project Needs: The East-West Corridor is a major travel corridor bisecting Milwaukee and Waukesha Counties. The Corridor includes portions of six cities: Brookfield, Milwaukee, New Berlin, Waukesha, Wauwatosa, and West Allis; three villages: Elm Grove, Shorewood and West Milwaukee; and three towns: Brookfield, Pewaukee and Waukesha.

Beginning at the University of Wisconsin-Milwaukee, the Corridor proceeds through downtown Milwaukee to the City of Waukesha. Generally, Locust Street is considered the Corridor's northern boundary and Lincoln Avenue is considered the southern boundary, from Lake Michigan to County Highway T in Waukesha County, WI. Transit improvements in the East-West Corridor are intended to improve transit accessibility in the Corridor. A significant portion of the Corridor is largely composed of a low income, non-white, and transit-dependent population. Improved transit may alleviate traffic and parking problems that prevail in some of the most densely populated portions of the Corridor. Further, improved transportation should better serve the bidirectional travel needs of Waukesha County's growing employment base and population. Improved transit in the corridor may alleviate regional air quality problems by providing alternatives to the automobile for many trips. In light of the above factors, the purpose of the East-West Corridor study is to identify the best approach for improving transit service in the Corridor in a cost-effective, equitable, and publicly acceptable manner.

Alternatives: Transportation alternatives proposed for consideration in the Corridor include a No-Build/TSM Alternative, consisting of already programmed transportation improvements such as the reconstruction of the Stadium, Marquette and Zoo interchanges on IH 94 and implementation of an extensive Freeway Traffic Management System. The No-Build/TSM Alternative also will include maintenance of current transit service expanded for Corridor growth. Secondly, the Alternatives Analysis will include an Express Bus Alternative which represents the best that can be accomplished with bus and bus guideways. Improvements could include high occupancy vehicle (HOV) lanes, signal timing improvements, and bus park-and-ride and transfer centers, intersection modifications and busways. Two Light Rail Transit (LRT) alternatives as proposed for consideration in the Corridor. The two alternatives could be light rail services from Waukesha to Downtown Milwaukee and the University of Wisconsin-Milwaukee Campus. Two levels of light rail service are proposed for analysis: one would be an urban, frequent stop, higher capacity service and the other would offer higher speeds, greater station spacing, and more park-and-ride opportunities for transit users. The alignments could be an exclusive guideway, along transit malls or on a shared right-of-way. The alignments selected for inclusion in the East-West Corridor AS/DEIS will be evaluated during screeening and refined during the study; multiple alignments will be studies.

Probable Effects: FTA and WisDOT plan to evaluate the EIS all significant social, economic and environmental impacts of the alternatives. Among the primary issues are transportation service changes, including transit cost, service, patronage change, and its financial implications; the effect on traffic movement and railroad operations; community impacts, including land use planning and zoning compatibility, neighborhood compatibility, local and regional economic change, aesthetics, and utility relocation; cultural resource impacts, including effects on historic, archeological, and park resources; and natural resource impacts, including air quality, noise and vibration, removal of pre-existing hazardous wastes, and effects on water resources and quality, natural features, and ecosystems. The proposed impact assessment and its evaluation criteria will take into account both positive and negative impacts, direct and indirect impacts, short-term (construction) and long-term (operation) impacts, and site-specific and corridor-wide impacts. Evaluation criteria will be consistent with the applicable Federal, State of Wisconsin, and local standards, criteria, regulations, and policies. Mitigation measures will be explored for any adverse impacts that are identified as part of the analysis.

FTA Procedures: In accordance with the Federal Transit Act, as amended, and FTA policy, the Draft EIS will be prepared in conjunction with an Alternatives Analysis, and the Final EIS in conjunction with Preliminary Engineering. After its publication, the Draft EIS will be available for public and agency review and comment, and a public hearing will be held. On the basis of the Draft EIS and the comments received, WisDOT will select a locally preferred alternative and see approval from FTA to continue with Preliminary Engineering and preparation of the Final EIS.

Issued on: March 20, 1992.

Joel Ettinger,

Central Area Director.

[FR Doc. 92–7090 Filed 3–26–92; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: March 20, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0314.

Form Number: Notice 89–61.

Type of Review: Extension.

Title: Imported Substance; Rules for Filing a Petition.

Description: Section 4672 provides that importers and exporters may request modifications of the list of imported taxable substance. The Notice sets forth rules for filing a request.

Respondents: Businesses or other, Small businesses or organizations.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 100 hours.

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–7075 Filed 3–26–92; 8:45 am]

BILLING CODE 4830–01–M

Office of the Secretary

[Department Circular—Public Debt Series—No. 11–92]

Treasury Notes of March 31, 1997, Series K–1997

Washington, March 19, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $10,250,000,000 of United States securities, designated Treasury Notes of March 31, 1997, Series K–1997 (CUSIP No. 912827 E7 3), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated March 31, 1992, and will accrue interest from that date, payable on a semiannual basis on September 30, 1992, and each subsequent 6 months on March 31 and September 30 through the date that the principal becomes payable. They will mature March 31, 1997, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Wednesday, March 25, 1992, prior to 12 noon, Eastern Standard time, for noncompetitive tenders and prior to 1 p.m., Eastern Standard time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, March 24, 1992, and received no later than Tuesday, March 31, 1992.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. A bidder, whether bidding directly or submitting bids through a depository institution or government securities broker/dealer, may not bid both competitively and noncompetitively for its own account in the auction.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids for more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of $3,587,500,000, which is 35 percent of the public offering amount of $10,250,000,000. A competitive bid by a single bidder at any one yield in excess of $3,587,500,000 will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the notes being auctioned, in "when issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. For competitive bids,

an institution submitting a bid for customers must submit with the institution's tender a customer list that includes, for each customer, the name of the customer and the amount bid at each yield. Customer bids may not be aggregated by yield on the customer list. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and lowest accepted price above the original issue discount limit of 98.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The maximum amount which may be awarded in this auction is $3,587,500,000. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in § 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time Thursday, March 26, 1992, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time Thursday, March 26, 1992, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more as a result of bids submitted by the depository institution or the broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in § 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompained by a guarantee as provided in § 3.7. must be made or completed on or before Tuesday, March 31, 1992. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, March 27, 1992. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3 Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if

the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A is incoroporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) Bank Holding Companies and Subsidiaries

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) Banks and Branches

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) Thrift Institutions and Branches

A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) Corporations and Subsidiaries

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) Families

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) Partnerships

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) Guardians, Custodians, or other Fiduciaries

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) Trusts

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) Political Subdivisions

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) Mutual Funds

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) Money Market Funds

A money market fund (includes all funds that have a common management).

(12) Investment Agents/Money Managers

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) Pension Funds

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "Single entity"

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219-3350).

[FR Doc. 92-7163 Filed 3-24-92; 3:57 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 10-92]

Treasury Notes of March 31, 1994, Series X-1994

Washington, March 19, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $14,750,000,000 of United States securities, designated Treasury Notes of March 31, 1994, Series X-1994 (CUSIP No. 912827 E6 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated March 31, 1992, and will accrue interest from that date, payable on a semiannual basis on September 30, 1992, and each subsequent 6 months on March 31 and September 30 through the date that the

principal becomes payable. They will mature March 31, 1994, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in a minimum amount of $5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Tuesday, March 24, 1992, prior to 12 noon, Eastern Standard time, for noncompetitive tenders and prior to 1 p.m., Eastern Standard time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, March 23, 1992, and received no later than Tuesday, March 31, 1992.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. A bidder, whether bidding directly or submitting bids through a depository institution or government securities broker/dealer, may not bid both competitively and noncompetitively for its own account in the auction.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids for more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of $5,162,500,000, which is 35 percent of the public offering amount of $14,750,000,000. A competitive bid by a single bidder at any one yield in excess of $5,162,500,000 will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the notes being auctioned, in "when issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in Section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. For competitive bids, an institution submitting a bid for customers must submit with the institution's tender a customer list that includes, for each customer, the name of the customer and the amount bid at each yield. Customer bids may not be aggregated by yield on the customer list. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of tne Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.9. No single bidder will be awarded securities in an amount exceeding 35

percent of the public offering. The maximum amount which may be awarded in this auction is $5,162,500,000. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in § 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time Wednesday, March 25, 1992, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time Wednesday, March 25, 1992, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more as a result of bids submitted by the depository institution or the broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1 Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in § 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in § 3.7. must be made or completed on or before Tuesday, March 31, 1992. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, March 27, 1992. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A is incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) Bank Holding Companies and Subsidiaries

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) Banks and Branches

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) Thrift Institutions and Branches

A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) Corporations and Subsidiaries

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) Families

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) Partnerships

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) Guardians, Custodians, or other Fiduciaries

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the

document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) Trusts

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) Political Subdivisions

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) Mutual Funds

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) Money Market Funds

A money market fund (includes all funds that have a common management).

(12) Investment Agents/Money Managers

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) Pension Funds

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (Telephone 202/219–3350).

[FR Doc. 92–7164 Filed 3–24–92; 3:57 pm]

BILLING CODE 4810–40–M

Fiscal Service

Surety Company in Liquidation; Mutual Fire & Marine Inland Insurance Co.

Mutual Fire & Marine Inland Insurance Company of Philadelphia, Pennsylvania, is being liquidated by the Pennsylvania Insurance Commissioner using the commissioner's rehabilitation powers. Until 1989, Mutual Fire & Marine Inland Insurance Company was a general purpose mutual casualty insurance company doing business under the laws of Pennsylvania. According to a 1991 order from the Pennsylvania court supervising the liquidation, $1.5 million have been set aside for United States claims anticipated against the estate under the Comprehensive Environmental Recovery, Compensation, and Liability Act ("CERCLA"), 41 U.S.C. 6901 *et seq.* or similar claims identified by the Environmental Protection Agency.

Mutual Fire & Marine Inland Insurance Company did not hold a Certificate of Authority as an acceptable surety on Federal bonds. However, because the Company executed surety bond guarantees to financial institutions which were placed in federal receivership, the United States may have acquired claims against the Company's estate.

All claims must be filed in writing and shall set forth the amount of the claim, the facts upon which the claim is based, any priorities asserted, and any other pertinent facts to substantiate the claim. It is recommended that federal agencies who wish to assert priority status claims under 31 U.S.C. 3713 should forward the claim to the address below no later than June 30, 1992: Department of Justice, Civil Division, Commercial Litigation Branch, P.O. Box 875, Ben Franklin Station, Washington, DC 20044, Attn: Sandra P. Spooner, Deputy Director.

Any questions concerning filing claims may be directed to Ms. Spooner at (202) 514–7194.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, Washington, DC 20227, Telephone (202/FTS) 874–6850.

Dated: March 20, 1992.

Charles F. Schwan, III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 92–7072 Filed 3–26–92; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 60
Friday, March 27, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Tuesday, March 24, 1992, the Corporation's Board of Directors determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Vice Chairman Andrew C. Hove, Jr., Chairman William Taylor, and Director Stephen R. Steinbrink (Acting Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and resolution re: Statement of Policy Regarding Applications for Deposit Insurance.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: March 24, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-7179 Filed 3-24-92; 4:48 pm]

BILLING CODE 6714-01-M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME AND DATE: 10:00 a.m., Tuesday, March 31, 1992.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

There has been a change in the agenda listed in the notice served March 24, 1992. The following items have been added to the agenda:

Finance Docket No. 31924, *Minnesota Zephyr Limited—Operation Exemption—Between East of Hudson, WI and Minneapolis and Duluth Junction, MN.*

and

Finance Docket No. 31885, *Stillwater and St. Paul Railroad, A Division of the Minnesota Transportation Museum, Inc.—Operation Exemption—Between Stillwater and Duluth Junction, MN.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of External Affairs, Telephone: (202) 927-5350, TDD: (202) 927-5721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-7221 Filed 3-25-92; 10:57 am]

BILLING CODE 7035-01-M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, April 7, 1992, in Washington, DC. The meeting is open to the public and will be held in the Benjamin Franklin Room on the 11th floor of U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

There will also be a session of the Board on Monday, April 6, 1992, but it will consist entirely of briefings and is not open to the public.

Agenda

Tuesday Session

April 7—8:30 a.m. (Open)

1. Minutes of Previous Meeting, March 9-10, 1992.
2. Remarks of the Postmaster General.
3. Operational Use of the Customer Satisfaction Index. (William R. Cummings, Senior Assistant Postmaster General, Operations Support Group.)
4. Review of the Barcoding Program. (Mr. Cummings.)
5. Tentative Agenda for the May 4-5, 1992, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 92-7261 Filed 3-25-92; 2:25 pm]

BILLING CODE 7710-12-M

federal register

Friday
March 27, 1992

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 821
Medical Devices; Device Tracking; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 821

[Docket No. 91N-0296]

Medical Devices; Device Tracking

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing regulations to establish a device tracking requirement for certain categories of medical devices. This action will ensure that device manufacturers can, after certain devices have been distributed to patients, promptly locate patients and devices if FDA orders a recall or patient notification due to serious adverse health consequences or unreasonable risks of substantial harm to the public health associated with the use of the device. To that end, the proposed tracking regulations outline the minimum recordkeeping and reporting requirements which FDA believes are necessary to ensure that tracking serves its purpose. The proposed regulations would apply to manufacturers and those persons involved in the distribution of tracked devices.

The promulgation of this device tracking regulation is required by the Safe Medical Devices Act of 1990 (the SMDA), which requires manufacturers of certain medical devices to adopt a method of tracking that follows the devices through the distribution chain and then identifies and follows the patients who receive them. The SMDA and this proposed rule require tracking of devices whose failure would be reasonably likely to have serious adverse health consequences if the devices either are life-supporting or life-sustaining and used outside a device user facility or are permanently implantable devices. The SMDA also gives FDA the authority to designate other devices which must be tracked by their manufacturers. This proposed regulation would apply to any such additional devices that FDA designates for tracking.

DATES: Written comments by May 26, 1992.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kathleen S. Shanahan, Center for Devices and Radiological Health (HFZ-321), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1122.

SUPPLEMENTARY INFORMATION:

I. Background

The current regulatory framework for medical devices is the result of three statutes which include: (1) The Federal Food, Drug, and Cosmetic Act of 1938 (the act), (2) the Medical Device Amendments of 1976 (the 1976 amendments), and (3) the Safe Medical Devices Act of 1990 (the SMDA).

The act, codified at 21 U.S.C. 321-394, prohibited the marketing of adulterated or misbranded devices. The 1976 amendments (Pub. L. 94-295), amended the act with new authority expressly designed to ensure the safety and effectiveness of medical devices.

The 1976 amendments gave FDA, for the first time, premarket controls over medical devices (e.g., classification, premarket notification, and premarket approval). Additionally, the 1976 amendments strengthened the act's postmarket controls relating to medical devices, giving FDA the authority to require patient notification; repair, replacement, or refund; reporting and recordkeeping; current good manufacturing practices (CGMP's); and restrictions on the distribution of certain devices.

The SMDA (Pub. L. 101-629), by streamlining procedures in some places and augmenting authority in others, refines the premarket and postmarket controls relating to medical devices added to the act by the 1976 amendments. Among the provisions of the SMDA that augment postmarket controls is the device tracking requirement of section 519(e) of the act (21 U.S.C. 360i(e)). This new provision requires that manufacturers track certain devices from the manufacturer through the distribution chain to the patient using the device. Under section 519(e) of the act, manufacturers must track devices whose failure would be reasonably likely to have serious adverse health consequences if the devices are either life-supporting or life-sustaining devices that are used outside a device user facility or permanently implantable devices. Section 519(e) of the act also gives FDA the authority to designate other devices which must be tracked by their manufacturers.

This new tracking provision is intended to ensure that FDA can remove dangerous or defective devices from the market expeditiously under new mandatory recall authority added to the act by the SMDA (section 518(e) of the act (21 U.S.C. 360h(e))) and preexisting notification authority (section 518(a) of the act (21 U.S.C. 360h(a))). As public health tools, however, notification and recall are only effective if patients are notified or devices are removed from distribution. Recent experiences with notification efforts undertaken by two manufacturers under section 518(a) of the act, in one case voluntarily, in another instance as ordered by FDA, highlight the need to implement effective device tracking.

The voluntary notification involved identifying, locating, notifying, and registering an estimated 23,000 recipients of an artificial heart valve that may fracture, putting the recipient's life in immediate danger (Refs. 1 through 5). Although the manufacturer of the valve did distribute return cards to hospitals to obtain each recipient's name when the valve was implanted, it is reported that less than 50 percent of these return cards were ever returned to the manufacturer (Ref. 2). Therefore no complete list of names of patients or information on their location was available to the manufacturer when it agreed to undertake the patient notification program (Ref. 2). The manufacturer has reportedly spent 2 million dollars to initiate the location, notification, and registration program (Refs. 2, 4, and 5). Location efforts, which began in December 1990, have included letters and telegrams to cardiologists, advertisements in medical journals, telephone calls to doctors, and media (Ref. 2). As of November 1991, the manufacturer reported to FDA that slightly more than 61 percent of the estimated number of recipients had been located (Ref. 6).

Another notification, ordered by FDA under section 518(a) of the act, involved a jaw implant with defects that may cause bone degeneration (Refs. 1 through 7). FDA estimates that over 26,000 of these implants were distributed between 1973 and 1988, but the manufacturer does not know how many were implanted (Refs. 9, 12, and 13). The manufacturer declared bankruptcy under chapter 7 on June 7, 1990 as a result of product liability suits (Ref. 14). The bankruptcy trustee has agreed to make distribution records (to the extent that they exist) available to FDA and the company president, but has refused to authorize notification on behalf of the bankrupt manufacturer or to pay for a patient notification program (Ref. 14). FDA has thus had to set up and provide funds for a patient identification and notification program.

II. Legislative History

In the past several years, Congress has focused considerable attention on FDA's implementation and enforcement of the 1976 amendments. Likewise, in the past several years, the General Accounting Office (GAO), the Office of Technology Assessment (OTA), and the Office of Inspector General of the Department of Health and Human Services (OIG) have conducted investigations and issued reports on problems associated with the distribution and use of defective pacemakers, pacemaker leads, heart valves, and apnea monitors. Although these reports discussed FDA's enforcement efforts, the reports also addressed the sufficiency of the existing provisions of the act to cope with the public health problems presented by these types of defective devices.

Congress concluded, from its own hearings and investigations and from its review of the GAO, OTA, and OIG investigations and reports, that the 1976 amendments were not always adequate to protect the public health. (H. Rept. 808, 101st Cong., 2d sess. 13–14 (1990); S. Rept. 513, 101st Cong., 2d sess. 13–16 (1990)). To correct these inadequacies, both houses of Congress proposed bills that streamlined and strengthened FDA's premarket and postmarket controls over medical devices. By conference agreement between the House and Senate, provisions in their two bills were merged, modified, and passed as the SMDA. The President signed the bill into law on November 28, 1990. Section 519(e), as enacted, incorporates section 13 concerning traceability in S. 3006 and section 3(b) of the SMDA concerning user tracking in H.R. 3095, but more closely follows the provisions of H.R. 3095.

Both the Senate and House Reports that accompanied these bills make clear that the purpose of tracking is to strengthen FDA's capability to remove dangerous and defective devices from the market. Specifically, section 519(e)'s tracking requirement is meant to facilitate implementation of the patient notification requirements (section 518(a) of the act) and the recall requirements (section 518(e) of the act). For example, the House Report states: "User tracking is critical to enable manufacturers or the FDA to notify patients who are using defective or otherwise dangerous devices." (H. Rept. 808, 101st Cong., 2d sess. 23 (1990). See also S. Rept. 513, 101st Cong., 2d sess. 26 (1990)).

The legislative history also speaks to the kinds of devices subject to the tracking requirement. The Senate Report accompanying S. 3006 states: "This requirement is limited to devices with the potential for causing the greatest harm and for which the potential of a recall is greatest." (S. Rept. 513, 101st Cong., 2d sess. 26 (1990)). Similarly, the House Report states that the tracking provisions in H.R. 3095 dealt with "devices critical to human health, such as heart valves and other implantable, life-sustaining devices." (H. Rept. 808, 101st Cong., 2d sess. 23 (1990)). FDA believes that these statements, in conjunction with the statutory language, provide a clear standard for determining when a device is a critical, high risk device that must be tracked. The statutory standard, the failure of which would be reasonably likely to have serious adverse health consequences, if the devices are either life-sustaining or life-supporting devices used outside device user facilities or are permanently implantable devices, is directed, as was congressional concern, to the medical importance of the device and the risks associated with a failure of the device.

Finally, the legislative history also addresses issues relating to the involvement of physicians in the accomplishment of effective tracking. The House Report states:

> The Committee believes that the role of individual physicians in the process of user tracking is an important but limited one. While FDA may establish regulations which call for the physician to initially provide patient information at the time a device is first used or implanted, the physician is not responsible for subsequent reporting on the whereabouts of the patient if that information is not available to physicians in the conduct of their medical practice. * * * To place the sole responsibility for user tracking on physicians would be unworkable * * *.

(H. Rept. 808, 101st Cong., 2d sess. 23 (1990)).

III. Purpose of the Proposed Regulation

The purpose of the proposed rule is to implement section 519(e) of the act. Section 519(e)(1) requires that a method of tracking be adopted by every person who is required to register under section 510 of the act (21 U.S.C. 360) and who engages in the manufacture of a device the failure of which would be reasonably likely to have serious adverse health consequences, if the device is either a life-sustaining or life-supporting device used outside a device user facility or is a permanently implantable device. This proposed rule also implements section 519(e)(2) of the act which requires that such persons adopt a method of device tracking of any other device that FDA designates for tracking.

The goal of the proposed rule is to ensure that a manufacturer can, if ordered to do so by FDA, comply with section 518(a) of the act (patient notification) and section 518(e) of the act (recall) in a prompt and complete manner. The proposed rule accomplishes this goal, not by requiring a particular method of tracking, but by setting forth the standard that every tracking system must satisfy: A manufacturer of a tracked device, by whatever method(s) of tracking it chooses, must be able to report specified information relating to the identity of patients and location of tracked devices to FDA within 3 working days (proposed § 821.25(a)). To assure that the methods adopted are adequate to meet this standard, the proposed rule requires: (1) That a tracking system be based on a written standard operating procedure (SOP) that provides for the collection and maintenance of certain information for the useful life of the device (proposed § 821.25 (b) and (c)); (2) that the manufacturer identify its devices in a unique fashion; and (3) that the tracking data and the functioning of the tracking system be audited at 6 month intervals in accordance with a quality assurance program incorporated into the tracking SOP (proposed § 821.25(c)). As further assurance that manufacturers' tracking systems will be effective, the proposed rule imposes specific but limited tracking obligations on other persons involved in the distribution of tracked devices (proposed § 821.30).

IV. Statutory Authority

Section 519(e) was added to the act by section 3(b)(1) of the SMDA. Section 3(c) of the SMDA directs FDA to issue regulations to implement section 519(e) of the act. Section 3(c)(B) of the SMDA specifically requires that such regulations: (1) Require appropriate methods for maintenance of records to ensure that, if notification is ordered under the act, it is effective; (2) require that manufacturers adopt effective tracking methods; and (3) account for the position of distributors in the device distribution process. This provision of the SMDA also gives FDA authority to include such other requirements as it deems necessary to ensure effective tracking.

In addition, section 519(a) of the act (21 U.S.C. 360i(a)) (added by the 1976 amendments) authorizes FDA to issue regulations to require device manufacturers, importers, and distributors to maintain such records, make such reports, and provide such information to FDA as may reasonably be necessary to assure that devices are not adulterated or misbranded and are otherwise safe and effective for human

use. That Congress intended FDA to use this authority under section 519 of the act to protect the public from potentially hazardous devices, as well as devices with confirmed hazards, is clear from the legislative history of the 1976 amendments. In discussing the provisions in section 519 of the act designed to reduce the burden and cost of recordkeeping requirements of that section of the act, the House Report specifically identifies records of "product distribution * * * where necessary to protect the public health" as examples of records that may be required under section 519(a) despite the limiting provisions. (H. Rept. 853, 94th Cong., 2d sess. 24 (1976)).

In discussing the notification provisions of section 518 of the act (21 U.S.C. 360h), the House Report, the principal legislative document on the 1976 amendments, states, in part:

> The notification provision is similar to, and to some extent patterned after, comparable authority contained in the National Traffic and Motor Vehicle Safety Act of 1966, the Radiation Control for Health and Safety Act of 1968, and the Consumer Product Safety Act of 1972. These statutes also include requirements that manufacturers provide notification of defects in their products to appropriate Federal agencies. The Committee determined that a comparable provision in new section 518(a) with respect to devices would be unnecessary since the Secretary could require the reporting of such information under the recordkeeping and reporting authority provided in new section 519 of the act.

(H. Rept. 835, 94th Cong., 2d sess. 21 (1976)).

Section 701(a) of the act (21 U.S.C. 371(a)) authorizes FDA to promulgate substantive binding regulations for the efficient enforcement of the act. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973); see also *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645, 653 (1973); *National Ass'n of Pharmaceuticals Manufacturers* v. *FDA*, 637 F. 2d 877 (2d Cir. 1981); *National Confectioners Ass'n* v. *Califano*, 569 F. 2d 690 (D.C. Cir. 1978); *National Nutritional Foods Ass'n* v. *Weinberger*, 512 F. 2d 688 (2d Cir.), cert. denied, 423 U.S. 827 (1975).

Section 704(a) of the act (21 U.S.C. 374(a)) provides, for purposes of enforcement of the act, that any duly authorized FDA employee is authorized, among other things: (1) To enter, at reasonable times, any factory, warehouse, or establishment in which devices are manufactured, processed, packed, or held or to enter any vehicle being used to transport or hold devices; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishments, or containers, and labeling therein. Section 704(e) of the act (21 U.S.C. 374(e)) establishes that every person required under section 519 of the act to maintain records and every person who is in charge or custody of such records must, upon request of any authorized FDA employee, permit the FDA employee at all reasonable times to have access to, to copy, and to verify such records.

V. Definitions

"Importer" means the initial distributor of an imported device who is required to register under section 510 of the act and 21 CFR 807.20 and includes any person who initially imports a device into the United States with the intention of further marketing the device without processing, repackaging, or relabeling the device.

"Manufacturer" means any person who manufactures, prepares, assembles, or processes a device. The term includes persons who: (1) Initially distribute an imported device (importer); (2) repackage or otherwise change the container, wrapper, or labeling of a device in furtherance of the distribution of the device from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer (repacker or relabeler); (3) initiate specifications for devices that are manufactured by a second party for subsequent distribution by the person initiating the specification (specifications developer); or (4) manufacture components or accessories which are ready to be used for any intended health-related purpose and are packaged or labeled for distribution for such health-related purpose and are processed by a licensed practitioner or other qualified person to meet the needs of a particular patient (ready-for-use component or accessory manufacturer).

"Device failure" includes the failure of a device to perform its intended function due to: (1) A departure from design, materials, or performance specifications; or (2) inadequate or inappropriate specifications. The term is not restricted to unanticipated, sudden, or catastrophic failures. With respect to material specifications, an unanticipated change in the biocompatibility of device materials, e.g., through degradation resulting in carcinogenic or other toxic effects that outweigh the benefits of using the device, would be considered a departure from such specifications.

"Reasonably likely" means probable. FDA emphasizes that the application of section 519(e) of the act does not turn on the probability of a device failure occurring but on the judgment (based on the intended use of the device) that, if a device failure occurs, serious adverse health consequences are more likely than not to occur.

The definition of "serious adverse health consequences" is derived from the legislative history of section 519(e) of the act. For a full explanation of this definition see the discussion below under "Serious Adverse Health Consequences."

"Permanently implantable device" is defined in terms of the device's intended purpose to assist, restore, or replace the function of an organ, system, or structure of the human body in a continuous and active manner throughout its useful life (i.e., the period of its placement in the body). This definition thus excludes implanted devices that are intended as temporary or are intended to be removed. However, FDA notes that an implant that is not permanent under this definition may nonetheless be subject to section 519(e) of the act because it is a life-sustaining or life-supporting device used outside a device user facility.

The definition for "life-supporting or life-sustaining device" is derived from 21 CFR 860.3 (classification procedure regulations) and the meaning is comparable. The definition of "device user facility" is that contained in new section 519(b)(5) of the act (21 U.S.C. 360i(b)(5)) (medical device reporting by device user facilities). FDA believes that outpatient diagnostic facilities which are not physicians' offices should be included with hospitals, ambulatory surgical facilities, nursing homes, and outpatient treatment facilities as a "device user facility." Devices located at outpatient diagnostic facilities are not used by the persons for whom the devices are indicated, and these persons would not possess the devices in the event of recall.

FDA notes that devices may be intended for use in a device user facility but will also be used outside a device user facility or that devices may be intended for use in and outside a device user facility. Manufacturers of life-sustaining or life-supporting devices who distribute such devices solely for use at a device user facility, but who know or should know that such devices are also being distributed for use or used outside a device user facility, must track this use of the device, as these devices have thereby become intended for use outside a device user facility. See 21 CFR 801.4 (definition of intended use). Likewise, manufacturers of life-sustaining or life-supporting devices who distribute such devices for use in

and out of a device user facility must track the outside distribution and use of their device to the patient.

"Distributor" has been defined in terms of its common regulatory usage, to exclude the final person who makes delivery or sale of the device to the ultimate user.

"Distributes" is defined to clarify that distribution is not limited to commercial distribution, i.e., the sale or offering for sale, of a device intended for human use. FDA believes that section 519(e) of the act requires the tracking of all devices that are distributed regardless of whether the patient pays for the device. FDA is aware, for example, that some companies distribute pacemakers or implantation in the needy after their "implant before" date has been exceeded. Thus, for the purpose of this proposed rule, "distributes" covers any distribution. The only exclusions from this definition are: (1) For devices distributed under an effective investigational device exemption in accordance with section 520(g) of the act and 21 CFR part 812 because patients receiving investigational devices are effectively tracked through participation in a study, and (2) for devices distributed for teaching, law enforcement, research or analysis as specified in 21 CFR 801.125.

"Final distributor" and "multiple distributor" are defined for ease of reference. FDA believes it is necessary to include the class of persons covered by these two definitions within this proposed rule. "Final distributors," such as licensed practitioners, retail pharmacies and other retailers, and hospitals and other device user facilities, and "multiple distributors," such as rental firms, device user facilities, or other device distributing enterprises, are vital links in the device user tracking process. Further, including these persons within the tracking system comports with Congress's directive to FDA in section 3(c)(1)(B) of the SMDA to take into consideration the position of distributors in the device distribution chain and with the legislative history of the SMDA that states that FDA may require physicians to report patient identity.

"Licensed practitioner" is defined in terms comparable to those used in other FDA regulations.

VI. General Guidance

A. Responsibility for Identification

1. Devices Subject To Tracking Under Section 519(e)(1) of the Act

Section 519(e)(1) of the act provides for the mandatory tracking of those devices that meet its criteria. However, FDA recognizes that, as the agency charged with implementing and enforcing section 519(e) of the act, its interpretation of the statutory terms and its views on the application of section 519(e)(1) of the act are entitled to great weight. Thus, FDA expects manufacturers to make this determination based upon the guidance in the definitions in the rule, with the guidance herein (which includes an illustrative list of example devices that FDA believes are subject to tracking under section 591(e)(1) of the act), and with future guidance from FDA. To ensure that the list of example devices is readily available to the public in conjunction with the definitions of the key terms, FDA is proposing to incorporate this illustrative list in proposed § 821.20 (b)(1) and (b)(2).

In addition, FDA, when clearing premarket notification submissions (510 (k)'s) or approving premarket approval applications (PMA's), will notify the person receiving clearance or approval that FDA believes the device is subject to tracking. This notification will be given in writing, but will not be a part of the 510(k) order or the PMA approval order. In addition, FDA will notify the public (through publication of a notice in the **Federal Register**) that FDA believes a new generic type of device is subject to tracking and will solicit comments from the public on the agency's position. In the case of PMA devices that are the subject of approved PMA's, this notification will be given in the same issue of the **Federal Register** as the notice of the PMA approval order that is published after FDA's approval of the PMA for the device. In the case of section 510(k) devices, this notice will be published as soon as possible following notification of the manufacturer that a device is substantially equivalent. New generic types of devices that FDA identifies as subject to tracking through the premarket approval and clearance processes will also be added to the list of example devices set out in the regulation.

FDA believes that making the public aware of the fact that FDA believes a device is subject to tracking and soliciting comment from the public will serve two distinct purposes. First, it will serve to notify manufacturers of substantially equivalent devices that FDA believes that the tracking requirements of section 519(e) of the act apply to their devices, while also serving to notify those in the distribution chain of the tracking requirement. Secondly, it will provide consumers and manufacturers and other persons affected by FDA's determination, as well as the manufacturer(s) of the device in question, with the opportunity to share information and views with FDA, thereby ensuring that FDA's enforcement of the tracking provision proceeds deliberately and publicly, based upon complete and balanced information.

The decision diagram, shown below in Figure 1, is provided to assist firms in deciding which types of devices must be tracked on the basis of section 519(e) of the act, the definitions set forth in the proposed rule, and the concepts discussed in this preamble.

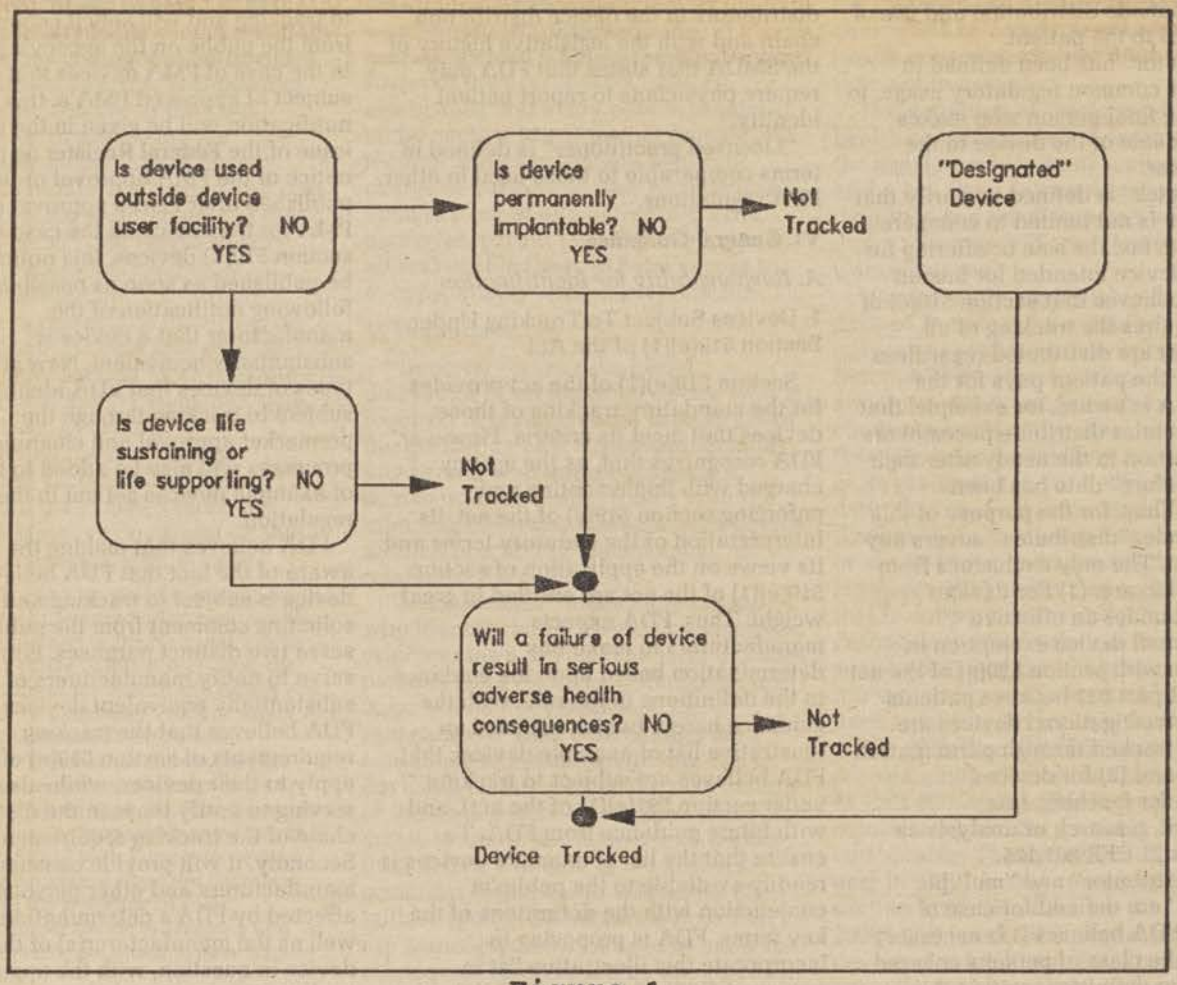

Figure 1

FDA realizes that this proposed rule is likely to become the final rule on May 28, 1992, by operation of the statute. See Public Law 101–629, section 3(c)(2) of the SMDA. If this occurs, FDA will consider the rule an interim final rule, will continue to review the comments, and will make any revisions to the rule as soon as practicable. Nevertheless, FDA emphasizes that, because the proposed rule will have become final by operation of law, manufacturers of devices subject to mandatory or discretionary tracking will be required to establish tracking systems for such devices in accordance with these regulations.

This approach, however appropriate it may be, leaves both FDA and those persons subject to the tracking requirements with a degree of uncertainty as to what the final scope of the regulations will be. For example, FDA anticipates that many comments may address not only the requirements for tracking systems but may also address definitions such as "permanent implant." "serious adverse health consequences." and "life-sustaining or life-supporting," terms whose definitions affect the scope and application of the mandatory tracking requirements. In addition, FDA expects that some comments will specifically challenge the devices that appear on the illustrative lists as examples of FDA's current interpretation of section 519(e)(1)'s terms.

FDA believes, under the unusual statutory provisions applicable to this rulemaking, that it is necessary to accommodate the statutory requirement of a final rule by May 28, 1992, with FDA's commitment to the notice and comment process as the appropriate mechanism for informed decisionmaking on device tracking. In addition, FDA has no interest in compelling the expenditure of unncecessary resources to initiate tracking for devices that FDA, upon due consideration of comments, believes are not subject to mandatory tracking. Thus, FDA advises that, prior to May 28, 1992, if FDA determines that a generic type of device that FDA included on the illustrative lists does not meet the applicable mandatory tracking standards, FDA will promptly announce, by notice in the **Federal Register** of a device included on the illustrative lists is able to convince FDA that its version of the device should not be subject to tracking due to circumstances (e.g., technology, intended use) unique to its particular version of the device, FDA, in its enforcement discretion, will notify the manufacturer that FDA will not take action for failure to track the device.

2. *Devices designated by FDA for tracking.* The diagram in Figure 1

identifies a category of devices called "designated" devices. This category encompasses the devices that FDA designates for tracking under section 519(e)(2) of the act. A designated device may not be a permanently implantable device or a life-sustaining or life-supporting device used outside a device user facility. Some of the considerations that FDA is likely to use to determine whether a device should be designated are illustrated in Figure 2.

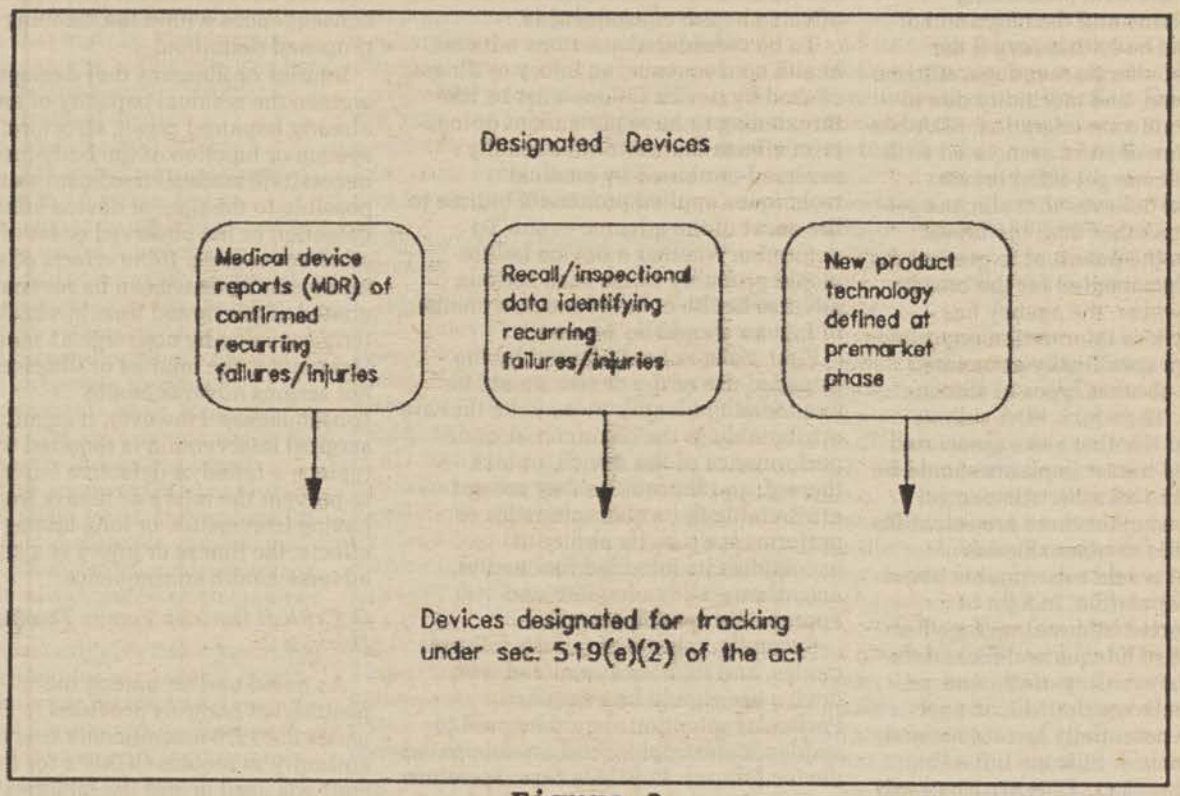

Figure 2

The agency will use its discretionary authority to designate and require the tracking of devices under section 519(e)(2) of the act to protect the public health. In assessing whether to designate a device to be tracked under section 519(e)(2) of the act, the agency will focus on the significance of risks to health posed by device use, especially the potential for serious injury, harm, or hazard to the public. Devices that FDA anticipates it will need to designate to be tracked are devices that demonstrate (or may demonstrate) recurrent, unpredictable, unexpected, or widespread failures, when such failures are hazardous or potentially hazardous. In the tracking context, the agency will consider a device to be hazardous if the device presents a risk of injury, death, or other serious adverse effect under the conditions of its intended use. The agency believes it is consistent with the intent of section 519(e)(2) of the act and with the general purpose of the SMDA to designate devices that present such risks to protect the public from defective devices that are unsafe or ineffective.

FDA is considering, with respect to designated devices, whether to adopt "levels" of tracking. FDA recognizes that some protection may be afforded patients who are part of an implanted device registry that is effectively compiled. For example, FDA would require a device to be tracked to the date of initial implantation in a patient and require full identification of all patients implanted with such designated devices, but because of the nature of the device or other circumstances, but not require the following patients beyond that point in time. This initial patient identification would include a social security number which, FDA believes, would make subsequent location of the patient possible.

The agency will designate that a particular device or gneric type of device is required to be tracked under section 519(e)(2) of the act by written notice, in the form of a letter, issued to the manufacturer of such a device or to the manufacturers of such a generic type of device. In addition, the agency will publish in the **Federal Register** a notice of the agency's determination that a particular generic type of designated device is required to be tracked under section 519(e)(2) of the act and will, as with devices subject to tracking under section 519(e)(1) of the act, solicit comment from the public. The agency considers the determination authorized by section 519(e)(2) of the act to be within the agency's discretionary authority and not subject to the rulemaking procedures prescribed by the Administrative Procedure Act.

FDA is hereby announcing that the agency will designate and require the tracking of any device that has silicone gel as a primary constituent of the finished device and is intended to remain in the body for 30 days or longer, and is soliciting comment on this designation and data regarding the long

term safety of these devices. Examples of these devices include silicone gel-filled breast prostheses (21 CFR 878.3540) and testicular prostheses (21 CFR 876.3750). FDA has examined recent scientific data concerning silicone implants and the migration of silicone in the body that reveal the occurrence of allergic reactions, silicone lymphadenoma, and morbidity due to silicone and silicone migration. FDA has documentation of risks associated with the use of silicone gel-filled breast implants, and believes that silicone gel-filled implants other than the breast implant have the potential to present the same risks documented for the breast implant. However, the agency has considerably less information regarding possible risks specifically associated with the use of other types of silicone gel implants. Therefore, FDA solicits comments on whether risks associated with gel-filled breast implants should be extrapolated to all other silicone gel implants, or whether there are scientific factors specific to other silicone implants that would raise doubts about such an extrapolation. In light of recently reported information together with absence of adequate clinical data on the long term safety of silicone gel, the agency believes that silicone gel implants are potentially hazardous and should be tracked. Silicone inflatable breast prostheses (21 CFR 878.3530) will also be designated to be tracked because of similar potential hazards presented by these devices. FDA will notify the manufacturers of such products that these devices are designated as devices that are required to be tracked under section 519(e)(2) of the act. This designation will become effective when regulations implementing section 519(e) of the act become final.

B. Serious Adverse Health Consequences

The legislative history of the SMDA provides the following explanation of the term "serious adverse health consequences:"

> The Committee believes that this term should mean any significant adverse experience attributable to a device, including those which may be either life threatening, or involve permanent or long term injuries, but excluding those non-life-threatening injuries which are temporary and reasonably reversible. In other words, injuries attributable to a device that are not significant in nature and are treatable and reversible by standard medical techniques, proximate in time to the injury, are not included within the term's definition.
>
> (S. Rept. 513, 101st Cong., 2d sess. 19 (1990)).

The definition of "serious adverse health consequences" (proposed § 821.3(e)) incorporates these elements and includes life-threatening, permanent, and long-term illnesses attributable to device failure as serious adverse health consequences.

To be considered a serious adverse health consequence, an injury or illness caused by device failure must be life-threatening or have permanent or long-term effects that cannot be readily reversed or abated by medical techniques applied proximate in time to the onset of the adverse event. To determine whether a device failure would probably cause such serious adverse health consequences, a number of factors should be assessed.

First, risks to health posed by the intended use of the devise should be examined to identify those risks that are attributable to the characteristics or performance of the device, or lack thereof, and those risks that are not attributable to its characteristics or performance (i.e., its ability to accomplish its intended function in accordance with adequate and appropriate specifications).

Secondly, reports of failure, failure modes, and injuries associated with device use should be examined. Particular attention should be paid to sudden, catastrophic, and unanticipated device failures. In FDA's case, literature reports, premarketing submissions, establishment inspection reports, medical device reporting (MDR), and device recall data may be relied on to identify failures and resulting injuries.

Thirdly, the intended function of the device and the organ, structure, system or function of the body affected by the performance of the device should be examined to assess the significance of any injury or illness that would result from device failure. The significance of an injury or illness should be determined from examining the importance of the function of the device to life and health; the importance, to life and health, of the organ or structure of the body affected by the illness or injury; the expected effects of the injury or illness upon the residual capacity or condition of an already impaired structure or system of the body; and any collateral ramifications that may ensue from the illness or injury, such as risks attendant to any required surgery.

The probable or expected effects of device failures also assist in assessing the nature and type of medical intervention that would be required to treat adverse consequences. Life-threatening injuries or illnesses require immediate medical care and are serious adverse health consequences. Injuries and illnesses that do not worsen the residual capacity of an organ, structure or system of the body should not require medical treatment proximate in time to the occurrence of the device failure and thus are not serious adverse health consequences within the meaning of the proposed definition.

Injuries or illnesses that damage or worsen the residual capacity of an already impaired organ, structure, system or function of the body probably necessitate medical treatment as near as possible to the time of device failure detection or the observed onset of an adverse reaction. If the effects of such injuries or illnesses can be reversed, abated or prevented from having long-term sequelae by nonsurgical, medical techniques, the injuries or illnesses are not serious adverse health consequences. However, if significant surgical intervention is required to replace a failed or defective implant or to prevent the injury or illness from having irreversible or long-lasting effects, the illness or injury is a serious adverse health consequence.

C. Critical Devices Versus Tracked Devices

As noted earlier, among the postmarket controls provided to FDA under the 1976 amendments was the authority to require CGMP's for the methods used in and the facilities and controls used for the manufacture, packaging, storage, and installation of a device (sec. 520(f) of the act (21 U.S.C. 360j(f))). Under this authority, FDA promulgated regulations that imposed general CGMP requirements for all devices. FDA, under the sections 519 and 520(f) of the act, also imposed additional CGMP requirements on manufacturers of certain devices, termed "critical devices." One of these additional CGMP controls was a traceability requirement which requires the manufacturer of a critical device to keep records tracking the device to the first level of distribution. See 21 CFR 820.14, 820.151, 820.185.

A "critical device" is "a device that is intended for surgical implant * * * or to support or sustain life and whose failure to perform when properly used * * * can be reasonably expected to result in a significant injury to the user." 21 CFR 820.3(f). These terms are similar to terms used in section 519(e). Guidance that the agency has provided to clarify the types of devices which it considers to be critical devices (a 1988 advisory list), therefore, may be of some use in identifying tracked devices. However, FDA emphasizes that, as guidance, the "Advisory List of Critical Devices—

1988" (53 FR 8854 through 8858, March 17, 1988 (Ref. 15)) has limitations as the list was published in 1988 and was never intended to be an exhaustive compilation of critical devices. To ensure that no undue reliance is placed on this list, FDA will discuss the differences that must be kept in mind when examining the critical devices list and distinguishing between critical devices and tracked devices.

Only permanently implantable devices that are intended to perform their function in an active and continuous manner in the body, thoughout the useful life of the device, or are not intended to be explanted must be tracked. A number of implantable devices shown on the 1988 critical devices list do not meet these criteria and are not subject to tracking requirements on this basis. Examples of such devices that are not required to be tracked, include: Indwelling blood oxygen partial pressure (PO_2) analyzer (21 CFR 868.1200), trace microsphere (21 CFR 870.1360), absorbable surgical gut suture (21 CFR 878.4830), and smooth or threaded metallic bone fixation fastener (21 CFR 888.3040).

Only life-sustaining or life-supporting devices intended for use outside device user facilities must be tracked. Life-sustaining or life-supporting devices that are intended for use in, distributed to, and exclusively used in device user facilities are not subject to tracking requirements. Examples of such devices, taken from the 1988 critical devices list, that are not required to be tracked due to this distinction include: medical equipment (autotransfusion apparatus, 21 CFR 868.5530); therapeutic devices (tracheal/bronchial differential ventilation tube, 21 CFR 868.5740); diagnostic devices (withdrawal-infusion pump, 21 CFR 870.1800); and monitoring devices (arrythmia detector and alarm, 21 CFR 870.1025).

Critical devices present the reasonable expectation that their failure would cause "significant injury." Tracked devices, on the other hand, present a reasonable likelihood of "serious adverse health consequences" in the event of failure. Distinctions between "significant injury" and "serious adverse health consequences" are a matter of judgment, degree, and definition. An injury to an already impaired organ or structure of the human body that is important to life and health is inherently significant. When the effects of such an injury or illness caused by device failure are life-threatening, permanent or long-term, the injury or illness is also a serious adverse health consequence. Examples of devices, taken from the 1988 critical devices list, that are not required to be tracked because their failure would probably cause a significant injury, but not a serious adverse health consequence include: Single/multiple component metallic bone fixation appliances and accessories (21 CFR 888.3030), finger joint polymer constrained prosthesis (21 CFR 888.3230), toe joint polymer constrained prosthesis (21 CFR 888.3720) and toe joint phalangeal (hemi-toe) polymer prosthesis (21 CFR 888.3730).

D. Examples of Devices Subject To Tracking

As further guidance, FDA is providing a list of devices that FDA believes are subject to the tracking provisions of section 519(e)(1) of the act. As explained previously, this list is included in the proposed text of the tracking regulation (§ 821.20(b)(1) and (b)(2)) and is to be published in the Code of Federal Regulations. The devices are identified by classification names established in FDA's classification regulations (21 CFR parts 862 through 892) and are preceded by the part and section number of the applicable classification regulation. These devices are ones that FDA believes meet the criteria for tracking, based on information available to the agency. Absent additional information or a reevaluation of available information, FDA does not now foresee taking enforcement action based on a manufacturer's failure to track devices that FDA has not placed on the illustrative list or for which manufacturers have not received any notice. (Of course, this approach would not apply if the device was being distributed without the requisite clearance from FDA, since FDA would not have been aware that the device was being distributed and would not have been able to give any kind of notice.) FDA notes that other devices may also meet the criteria for tracking, based on information not currently available to the agency. It is initially the responsibility of the manufacturer to make this distinction, subject, of course, to the agency's primary jurisdiction to interpret its statutes and regulations. FDA welcomes inquiries and consultation on whether additional devices are required to be tracked.

E. Manufacturer Requirements

1. Requirements for Device Tracking Systems

The proposed rule does not mandate how a manufacturer implements the tracking requirements or tracks a device. FDA has chosen to allow manufacturers with tracking obligations to develop the detailed plans, procedures, methods, and means of tracking, so they can implement tracking systems most suitable in light of the tracked device and the manufacturer's distribution system, resources, computer capability, and recordkeeping processes. The tracking system requirements are only specific in that they mandate the minimum characteristics of a tracking system, the data which must be collected and maintained, and the standards by which to measure the effectiveness of the tracking system.

The proposed rule establishes the following standards for device tracking systems.

a. The manufacturer must be able to furnish FDA, within 3 working days of a request, with the location and identity of all persons currently holding or using a tracked device (proposed § 821.25(a)).

b. The manufacturer must collect and keep current records of certain patient identification and device location data for the useful life of the device (i.e., as long as the device is in distribution or use) (proposed §§ 821.25(b) and 821.60).

c. The tracking system must be based on a written SOP for the uniform collection, maintenance, and manipulation of the required distribution and user information (proposed § 821.25(c)(1) and (c)(2)).

d. The tracking system SOP must include a quality assurance program that incorporates: (1) Written procedures for auditing the accuracy of required distribution and user information; and (2) written procedures for auditing the functioning of the device tracking system, including the adequacy of the reporting, and information collection and maintenance procedures of distributors, final distributors, multiple distributors, and outside organizations that implement the manufacturer's device user tracking system (proposed § 821.25(c)(3)).

These standards do not preclude the use of patient registries or implant registries as long as such registries comply with the tracking requirements mandated by the proposed rule. Nor do these standards restrict or prohibit the use of outside consultant or specialist organizations from assisting a manufacturer in developing an effective tracking program or from assisting a manufacturer in implementing a tracking system. However, as set out in the proposed § 821.1(b), in both instances, the agency considers any tracking program and tracking system developed and implemented by an outside organization to be the manufacturer's responsibility, and the manufacturer

bears full responsibility for assuring compliance with the requirements of the proposed rule.

2. Data Collection and Maintenance

Proposed § 821.25(b) sets out the product, distribution, and patient identification information that must be obtained, recorded, and maintained (updated) by a manufacturer in an effective tracking system.

Manufacturers must obtain, record, and maintain the identity of each tracked device they distribute. Tracked devices must be identified in a unique manner that distinguishes a device from other units and other models of the device and from comparable devices of different manufacturers. If product model, lot, and serial numbers do not distinguish between units of a device, the manufacturer must adopt unique tracking designations for device units. Thus, the proposed rule does have the effect of requiring manufacturers to uniquely identify each tracked device distributed, if they do not already do so. Without such a requirement, tracking would be unworkable.

Manufacturers must obtain, record, and maintain the following distribution information in a tracking system: (1) The date the device was shipped by the manufacturer; and (2) the name, address, and telephone number of distributors, multiple distributors and final distributors in the distribution network between the manufacturer and the patient.

Manufacturers must obtain, record, and maintain the following patient or user information in a tracking system: For single-patient-use devices, the name, address, telephone number, and social security number of the patient; the date the patient received the device; and for multiple-patient-use devices, the name, address, and telephone number of the multiple distributor. In addition, in the case of single-patient-use devices, manufacturers must obtain, record, and maintain the name and location of the licensed practitioner who prescribed and/or implanted the device, who explanted the device (if applicable), or who treats the patient. This information, in conjunction with the required distribution information, is indispensable to the conduct of timely recalls and notification of patients or licensed practitioners when serious adverse health consequences or unreasonable risks of substantial public harm associated with the use of a device warrant such actions. FDA believes that the Social Security number may be a very useful tool in tracking patients. FDA is also sensitive, however, to concerns about including Social Security numbers in records. Therefore, FDA notes that Social Security numbers may be supplied to the tracking system only with the consent of the patient.

In addition, the proposed rule provides for the collection of information that will terminate a manufacturer's responsibility to track a particular device, including the date the device was explanted, first returned to the manufacturer or any other person in the distribution network, or the date the device was permanently retired from use or otherwise permanently disposed of. Removal of devices from use because they no longer function as intended in a safe and effective manner due to age should result in the destruction of the devices and terminate tracking. Removal of implanted devices from patients and device returns to the manufacturer may temporarily interrupt or permanently terminate tracking of the products depending upon whether the devices are destroyed or reworked and further distributed as safe and effective devices. (However, tracked devices returned to multiple distributors which remain available for further distribution must be tracked by the multiple distributor to the next patient.)

FDA has chosen not to mandate the use of labeling or tracking forms to implement section 519(e) of the act. Nevertheless, the agency encourages the use of such labeling. FDA believes that labeling, tracking forms, invoice notations, or other written notices that alert distributors, multiple distributors, and final distributors that a device must be tracked can only improve the effectiveness of a manufacturer's tracking system.

FDA considers licensed practitioners, hospitals, and ambulatory surgical facilities to be key links to patients when tracking permanent implants and single-patient-use life-sustaining or life-supporting devices since they, as a result of their relationship with the patient, should possess reliable and accurate patient information. A manufacturer should, therefore, devote special effort to designing a tracking system that facilitates required reporting from these persons back to the manufacturer. Likewise, with respect to multiple-patient-use tracked devices, tracking methods put in place by a manufacturer should provide for the accurate and complete recording of tracking information by multiple distributors to facilitate satisfactory recordkeeping and prompt transmission of the necessary data to the manufacturer.

The agency is not aware of any one method that most effectively keeps track of the identity and current location of patients with tracked devices. In the case of permanent implants, after initial collection of the required data, a combination of tracking methods will probably be necessary to make sure the records are current, including preaddressed postcards given to patients by the final distributor intended to be completed and returned to the manufacturer if the patient moves or changes names; the use of cost rebates contingent upon the receipt of solicited information from the patient; periodic mailings or phone communication to patients; and postal service forwarding address lists to identify the changed address of a patient which was not otherwise obtained. FDA considers it extremely unlikely, however, that exclusive use of physician or patient return cards or other tracking methods intended solely to identify the patient at time of receipt would enable the manufacturer to meet the standard of proposed § 821.25(a) (i.e., provide FDA with patient and device data within 3 working days).

FDA is aware of the fact that the accuracy of the information in the tracking system depends, to some extent, on the cooperation of persons beyond the control of the manufacturer or distributor, namely the physician or patient. FDA is requiring only that persons required to track a device demonstrate a "good faith" effort to collect the information and are able to demonstrate to FDA why information is not in the tracking system. We are particularly interested in receiving comments from manufacturers and distributors as to the methods they expect to use to track the patient-recipients of implantable devices and the patient-users of purchased or rented devices. We are also interested in receiving any data on the problems with or the success of current tracking programs.

3. Audit Requirements

An effective audit, FDA believes, should combine in-house paperwork and process reviews with external audits of information provided by distributors, final distributors, and multiple distributors. FDA believes that auditing at 6-month intervals is necessary to ensure the accuracy of data in the tracking system. The audit requirements apply to each device product line being tracked by the manufacturer. Further, the auditing should provide for a statistically relevant sampling of the data and information to be obtained to ensure data accuracy and proper functioning of the tracking system. The agency believes that an audit is

necessary every 6 months to ensure the proper functioning of the tracking system. The audit of the functioning of the system should include visiting or communicating with the persons upon whom the manufacturer relies for information, (i.e., distributors, final distributors, multiple distributors, and patients or users possessing the device). The purpose of data and performance audit requirements is to ensure that, if FDA orders a recall or patient notification, the tracking system will contain current, accurate patient identity and product location information.

Requiring the SOP to include a procedure to record changes or modifications made to existing data in the tracking system and changes made in the format used to maintain such data, including the dates on which such changes were made, provides information essential to data integrity. When errors in data are found, this record will provide a timeframe for initiating efforts to collect corrected distribution or patient identification information. Such a record may also be used to identify what data in the tracking system has been audited and at what time.

4. Distribution Requirements

Proposed § 821.1(d) and § 821.35(d) prohibit manufacturers from distributing tracked devices to any distributor, final distributor, or multiple distributor if a manufacturer knows, or should know, that required tracking information has not been collected, reported, or maintained by any such person. This prohibition does not apply when noncompliance is caused by the refusal of patients to provide necessary information despite reasonsable efforts by the manufacturer or distributor to obtain it. FDA notes that manufacturers have no excuse for failing to comply with this requirement: any tracking system put in place by a manufacturer of a tracked device must record that data on a tracked device is missing and why such data was not obtained (proposed § 821.25(c)(1)). In addition, FDA advises that it believes that manufactures have an affirmative duty to investigate when a particular distributor, multiple distributor, or final distributor frequently fails to provide information and claims it is due to patient refusals. Finally, a manufacturer must report the matter to FDA as required by proposed § 821.25(d).

The agency does not believe this sanction is as burdensome as it appears at first glance. If the sanction is applied consistently by all manufacturers, no competitive advantage or disadvantage would accrue to any manufacturer. FDA also believes that this sanction is the best protection a tracking manufacturer has against being held accountable for the noncompliance of others.

F. Tracking Obligations of Persons Other Than Manufacturers

Proposed § 821.30(a) imposes slightly different collection, reporting, and recordkeeping requirements on the persons involved in the distribution of tracked devices, depending on the type of device tracked (e.g., single- or multiple-patient-use) and role of that person in the distribution system.

Distributors (those persons between the manufacturer and the person who distributes the device to a patient) have the least to collect and report back. Upon receipt of a tracked device, they must provide the manufacturer with device identification information (name and model, serial number, and lot number), the date of receipt, and from whom they received the device (proposed § 821.30(a)(1) through (a)(4)). FDA is requiring distributors to report this information because it is necessary to ensure an effective recall or notification. After distribution of a tracked device, a distributor must provide to the manufacturer, if applicable and if known to the distributor, with information on explantation, patient death, returns, and retirement or other permanent disposition of a tracked device (proposed § 821.30(a)(5)). FDA is requiring reporting of this information back to the manufacturer so the manufacturer knows it can terminate tracking.

Final distributors (e.g., retailers, licensed practitioners, hospitals who distribute tracked devices to the patient, whether permanent implants, single-patient-use life-sustaining or life-supporting devices or devices designated for tracking), upon receipt of a tracked device, must provide the manufacturer with device identification information (name and model, serial number, and lot number), the date of receipt, and from whom they received the device (proposed § 821.30(a)(1) through (a)(4)). FDA is requiring final distributors to report this information because it is critical to ensure an effective recall or notification. Upon distribution of a tracked device to the patient, a final distributor must provide to the manufacturer patient information and certain physician information (proposed § 821.30(b)(1) through (b)(6)). Finally, if applicable and if known to the final distributor, the final distributor must provide the manufacturer with information on explantation, patient death, returns, and retirement or other permanent disposition of a tracked device (proposed § 821.30(b)(7)). FDA is requiring reporting of this information back to the manufacturer so the manufacturer knows it can terminate tracking.

Multiple distributors (persons who distribute to patients tracked devices intended for multiple-patient-use), in addition to similar collection and reporting responsibilities, must comply with certain recordkeeping requirements. Multiple distributors, upon receipt of a tracked device, must provide to the manufacturer device identification information (name and model, serial number, and lot number), the date of receipt, and from whom they received the device (proposed § 821.30(a)(1) through (a)(4)). As discussed above, reporting this information is necessary to ensure an effective recall or notification. Upon distribution of a tracked device to the patient, a multiple distributor must collect and maintain patient information and certain physician information, but need not report it to the manufacturer unless the manufacturer requests it (proposed § 821.30(c)(1) and (c)(2)). Finally, when applicable, the multiple distributor must provide the manufacturer with information on retirement or other permanent disposition of a tracked device (proposed § 831.30(c)(1)(viii)). Once again, FDA is requiring reporting of this information back to the manufacturer so the manufacturer knows it can terminate tracking.

FDA recognizes that the proposed rule may appear to affect multiple distributors more than other types of distributors. However, the durable medical equipment distributed by these person includes many life-supporting or life-sustaining devices that are used outside device user facilities. Any regulation that did not take into account this aspect of the device distribution system would not serve the statutory mandate. FDA believes that the proposed rule provides for the most effective and least costly manner of tracking multiple-patient-use devices. FDA has determined that requiring a manufacturer to keep constant track of each multiple-patient-use device would be overwhelming and unnecessary as long as a manufacturer can obtain current patient and device location information if it needs to. Moreover, FDA believes that the data that multiple distributors must keep under the proposed rule are largely data they currently collect in the normal course of business.

G. Termination of Tracking Responsibilities

All persons subject to this proposed rule must continue their tracking obligations for the useful life of each tracked device they manufacture or distribute. The useful life of a tracked device is the time a device is in use or in distribution for use (proposed § 821.60).

The proposed rule contains one exception to this requirement. Persons subject to this rule that are going out of business, permanently and completely, shall notify the appropriate FDA field office of their intention at the time they notify any government agency, court, or any supplier, and make arrangements to provide FDA with a complete set of their tracking records and information. FDA advises that this provision of the proposed rule does not apply to the following situations: (1) If a person ceases distribution of a tracked device but still continues to do other business, the person shall continue to track distributed devices for the remainder of the devices' useful life. (This holds true even if another person acquires the distribution rights to the device, unless that person, affirmatively and in writing, assumes responsibility for continuing the tracking of the devices previously distributed.); (2) If a person goes out of business completely, but other persons acquire the right to manufacture or distribute tracked devices from that person, those other persons are required to be responsible for continuing the tracking responsibilities of the previous manufacturer, distributor, multiple distributor, or final distributor.

H. Records

Under section 704 of the act, FDA's inspection authority extends to data relating to devices subject to reporting and inspection under regulations issued under section 519 of the act.

In general, FDA expects manufacturers to be able to produce records required under the proposed rule within 24 hours of the initiation of an inspection by the presentation of the FDA representative's official credentials and the issuance of Form FD 482, notice of inspection. This includes records and information required to be kept by regulations that are in the possession of others under contract with the manufacturer to conduct the manufacturer's tracking program.

I. Confidentiality

FDA has a longstanding policy of carefully guarding the privacy of individual patients and research subjects by fully observing the provisions of both the Freedom of Information Act and the Privacy Act. These statutes protect the confidentiality of personal information about individuals in agency records to the fullest possible extent. FDA's regulations implementing these statutes prohibit, with certain exceptions, the public disclosure of information in medical or similar records if that information would identify individual patients. See 21 CFR 20.63 and 21.10.

J. Compliance

The agency will review manufacturers' detailed, product-specific device tracking systems and user tracking programs during both regularly scheduled inspections and inspections initiated to investigate recalls and similar actions. As part of these inspections, the agency will also review manufacturers' quality assurance programs and audits under these regulations. In addition, persons with device tracking obligations other than manufacturers will be subject to periodic inspections, probably in association with specific recall matters.

K. Failure To Track

The tracking regulations are enforced through sections 502, 301, 302, 303, and 304 of the act. Under section 502(t)(2) of the act (21 U.S.C 352(t)(2)) a device is misbranded if there is a failure or refusal to submit information about the device that is required under section 519 of the act. Under section 301(a) of the act (21 U.S.C. 331(a)) the introduction of a misbranded device into interstate commerce is prohibited. Under section 301(b) of the act (21 U.S.C 331(b)) the misbranding of a device in interstate commerce is prohibited. Under section 301(k) of the act (21 U.S.C. 331(k)) any act which results in a device being misbranded after its shipment in interstate commerce is prohibited. Furthermore, under section 301(q)(1)(B) of the act (21 U.S.C. 331(q)(1)(B)) the failure or refusal to furnish any information required under section 519 of the act is prohibited. Under section 301(q)(2) of the act (21 U.S.C. 331(q)(2)) the submission of any required report that is false or misleading in any material respect is prohibited. Violations of section 301 of the act may be enjoined under section 302(a) of the act (21 U.S.C. 332(a)). Persons who are responsible for the violation of section 301 may be subject to criminal prosecution under section 303 of the act (21 U.S.C. 333). Devices that are misbranded within the meaning of section 502(t) of the act are subject to seizure and condemnation under section 304(a)(2) of the act (21 U.S.C. 334(a)(2)). Finally, under section 303(f) of the act (21 U.S.C. 333(f)), any person who commits a major violation of section 519(e) of the act may be subject to civil money penalties.

VII. Effective Date

Section 519(e) of the act becomes effective on the date that final regulations go into effect, or on May 28, 1992, whichever occurs first. Section 3(c)(A)(ii) of the SMDA directs FDA to issue proposed regulations implementing section 519(e) of the act within 9 months of enactment (by August 28, 1991). Section 3(c)(2) further directs FDA to issue final regulations not later than 18 months after enactment (by May 28, 1992). Section 3(c)(2) of the SMDA provides that if, after 18 months, final regulations have not been issued, the proposed regulations will become final. In the event this occurs, notice of this change in status of the proposed regulation will be published in the Federal Register.

VIII. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) and (e)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. Economic Impact

FDA has performed a threshold assessment to determine whether the requirements of the Medical Device Tracking regulation have sufficient economic impact to warrant a regulatory impact analysis in accordance with the requirements of Executive Order 12291 or a regulatory flexibility analysis under the Regulatory Flexibility Act (Pub. L. 96–354).

Based on the preliminary cost analysis below, the economic impact on industry will not exceed the $100 million threshold established under Executive Order 12291. Accordingly, the agency concludes that the rule is not a major rule under the criteria included in the Executive Order.

FDA believes this estimate is accurate on the basis of available data, however there are many aspects of current device tracking information about which FDA has little or no knowledge. Consequently, we solicit comment in response to the following questions to better estimate the costs and benefits:

1. How many device manufacturers currently use some form of tracking system?

2. What types of tracing systems do device manufacturers currently use?

3. To what extent would established tracking systems need to be adapted to meet the proposed requirements?

4. Which provisions of the proposed requirements would require completely new additions to, or restructuring of, current tracking systems?

5. What are the estimated costs to manufacturers of developing new systems, adding new components to existing systems, or making incremental changes to existing systems in order to meet the proposed tracking requirements?

6. Which standards in the proposed tracking requirement hinder the development by manufacturers of a cost-effective tracking system?

7. How and to what degree can the proposed tracking requirements for distributors be assimilated into the data systems that distributors currently use?

8. What are the costs to distributors of adapting their data systems to fit the proposed requirements?

9. What benefits would result from the proposed tracking systems in terms of standard business practices as well as improved ability to track and recall? The agency has identified 35 device types that are illustrative of devices subject to mandatory tracking (though not necessarily the only devices). Most of the illustrative devices are "critical devices," and the manufacturers of these devices already have to maintain appropriate distribution records that trace the devices to the first consignee under the CGMP regulations.

The preliminary estimated annual cost of medical device tracking, after a steady state condition is reached in about 7 years, is $41.1 million, consisting of $18.2 million to track breast implants, and $22.1 million to track the other permanently implanted devices and $0.8 million to track devices used outside of the device user facilities. These costs affect a relatively small number of manufacturers, 372 in total, which leads to an average impact of $110,000. The bulk of the impact is highly concentrated on a relatively few manufacturers, however. For instance, each of the 15 manufacturers of breast implants will experience a cost increase of over $1.2 million, on the average. The 40 manufacturers of heart valves, pacemakers and pacemaker leads will bear an estimated cost increase of $460,000 each. (The remaining 317 manufacturers will have cost increases averaging $14,500 each.) Of the 55 manufacturers bearing the largest impact, 22 of them are small (fewer than 50 employees). It is possible that some of these smaller manufacturers (and even some of the larger ones) may have difficulty in passing on some or all of the costs of tracking. Therefore, it is likely that some manufacturers will leave the implant market.

A copy of the agency's threshold assessment of the requirements for medical device tracking is on file at the Dockets Mangement Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

X. Paperwork Reduction Act of 1980

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35). The title, description and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing requirements and instructions, searching existing sources of distribution data, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Medical Device Tracking Requirements under section 519(e) of the act.

Description: FDA is proposing to implement the device tracking requirements of section 519(e) of the act, as added to the act by section 3(b)(1) of the SMDA (Pub. L. 101–629).

The agency is requiring that manufacturers, including repackers, relabelers, importers and others, of devices the failure of which would be reasonably likely to have serious adverse health consequences, if the devices are either premanently implantable devices or life-sustaining or life-supporting devices used outside device user facilities, or otherwise designated by FDA for tracking, adopt a method of tracking such devices throughout distribution to the device user or patient. Manufacturers (including others identified as manufacturers) and their device tracking systems and distributors, final distributors, and multiple distributors of the manufacturers' products, are required by the regulation to gather, record, maintain, and furnish to FDA, upon request, the location of the aforementioned types of devices, and the name and address of current users of the devices. The purpose of these tracking requirements is to facilitate identifying the current location of certain types of devices and the identity of all persons using the devices to enable manufacturers and FDA to expedite the recall of distributed devices that are dangerous or defective, and to facilitate the timely notification of patients or licensed practitioners of risks associated with such devices.

Description of Respondents: Manufacturers and other parties involved in the manufacture and distribution of certain devices.

ESTIMATED ANNUAL RECORDKEEPING BURDEN

Section	Annual number of responses	Average burden per response	Annual burden (hours)
821.25(a)	[1]372	344.0	127,968
821.25(b)(c)(d)	376,000	0.2	75,200
821.30(a)(b)(c)	500,000	0.2	100,000
Total			303,168

[1] This part of the burden for § 821.25(a) is a one-time burden for setting up a tracking system.

ESTIMATED ANNUAL REPORTING BURDEN

Section	Annual number of responses	Average burden per response (hours)	Total annual burden (hours)
821.25(d)	8	4	32

As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments regarding this burden estimate or any aspects of these information collection requirements, including suggestions for reducing the burden, should direct to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Officer for FDA.

XI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Damaska, William H., Acting Director, Office of Compliance and Surveillance, Center for Devices and Radiological Health, FDA, letter to Patrice Froidure, President, Shiley, Inc. (August 29, 1990).

2. "Los Angeles Times," Orange County ed., Part D, at 1, col. 4, January 20, 1991.

3. "New York Times," January 5, 1991, Sec. 1, at 46, col. 2.

4. "Washington Post," December 11, 1990, at A3.

5. "Los Angeles Times," Orange County ed., April 23, 1991, 1991, Part D, at 1, col. 2.

6. Sachs, Roger, M.D., Vice President and Medical Director, Shiley, Inc., letter to Betty Collins, Consumer Safety Officer, FDA, June 17, 1991.

7. Vince, Gerald A., Director, Dallas District, FDA, letter to Charles A. Homsy, Chairman of the Board, Vitek, Inc., January 26, 1990.

8. FDA Safety Alert, December 28, 1990.

9. Johnson, Ronald M., Acting Director, Office of Compliance and Surveillance, Center for Devices and Radiological Health, FDA, letter to Charles A. Homsy, Chairman of the Board, Vitek, Inc., April 26, 1991.

10. Gundaker, Walter E., Acting Director, Center for Devices and Radiological Health, FDA, letter to Ben B. Floyd, Vitek, Inc., May 29, 1991.

11. Gundaker, Walter E., Acting Director, Center for Devices and Radiological Health, FDA, letter to Charles A. Homsy, Chairman of the Board, Vitek, Inc., May 29, 1991.

12. "Houston Post," Final Edition Business Section, p. C1, May 10, 1991.

13. "Houston Post," Final Edition Business Section, p. C7, May 13, 1991.

14. Floyd, Ben B., Trustee, letter to Walter E. Gundaker, Acting Director, Center for Devices and Radiological Health, FDA, June 5, 1991.

15. Advisory List of Critical Devices—1988; Notice, 53 FR 8854–8858, March 17, 1988.

XII. Request for Comments

Interested persons may, on or before May 26, 1992, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 821

Device tracking, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 821 be added to read as follows:

PART 821—MEDICAL DEVICE TRACKING REQUIREMENTS

Subpart A—General Provision

Sec.

Subpart B—Tracking Requirements

Subpart C—Additional Requirements and Responsibilities

Subpart D—Records and Inspections

Authority: Secs. 502, 518, 519, 701, and 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352, 360h, 360i, 371, and 374).

Subpart A—General Provisions

§ 821.1 Scope.

(a) The regulations in this part implement section 519(e) of the Federal Food, Drug, and Cosmetic Act (the act) which requires the adoption of a method of device tracking by any person who registers under section 510 of the act and is engaged in the manufacture and distribution of devices the failure of which would be reasonably likely to have serious adverse health consequences if the devices are life-sustaining or life-supporting devices used outside of a device user facility or are permanently implantable devices. This part also applies to any other device that the Food and Drug Administration (FDA) designates as requiring a method of tracking to protect the public health. A device subject to this part either by statutory requirement or by FDA designation is referred to herein as a "tracked device."

(b) These regulations are intended to ensure that tracked devices can be traced from the device manufacturing facility to the person for whom the device is indicated, that is, the patient. Effective tracking of devices from the manufacturing facility, through the distributor network (including distributors, retailers, rental firms and other commercial enterprises, device user facilities and licensed practitioners) and, ultimately, to any person for whom the device is intended is necessary for the effectiveness of remedies prescribed by the act, such as patient notification (section 518(a) of the act) or device recall (section 518(e) of the act). Although these regulations do not preclude a manufacturer from involving outside organizations in that manufacturer's device tracking effort, the legal responsibility for complying with this part rests with manufacturers who must register under section 510 of the act, and that responsibility cannot be altered, modified, or in any way abrogated by contracts or other agreements.

(c) Each manufacturer of a tracked device shall implement a method of tracking devices by (insert date 30 days after date of publication of the final rule in the **Federal Register**) or May 28, 1992, whichever occurs first.

(d) Under section 301(q)(1)(B) of the act, it is prohibited for a manufacturer to distribute a tracked device to any distributor, final distributor, or multiple distributor when a manufacturer knows or should know that such person has failed to collect, maintain, or furnish any record or information required by this part. If, however, to the extent such a person, despite reasonable efforts, cannot collect, maintain, or furnish such required records or information because of refusals by patients to provide the necessary information, FDA may exempt a manufacturer from the sanction in the preceding sentence.

(e) The failure of a manufacturer or any other person, including a distributor, final distributor, or multiple distributor, who distributes a device subject to tracking to comply with any applicable requirement of this part renders the device misbranded within the meaning of section 501(t) of the act and further constitutes a prohibited act within the meaning of section 301(q)(1)(B) of the act.

(f) Any person subject to this part who permanently discontinues doing business is required to notify FDA at the time they notify any government agency, court, or supplier, and provide FDA with a complete set of its tracking records and information. However, if a person ceases distribution of a tracked device but continues to do other business, that person continues to be responsible for compliance with this part unless another person, affirmatively and in writing, assumes responsibility for continuing the tracking of devices previously distributed under this part. Further, if a person subject to this part goes out of business completely, but other persons acquire the right to manufacture or distribute tracked devices, those other persons are deemed to be responsible for continuing the tracking responsibility of the previous person under this part.

§ 821.3 Definitions.

The following definitions and terms apply to this part:

(a) *Act* means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., as amended.

(b) *Importer* means the initial distributor of an imported device who is required to register under section 510 of the act and § 807.20 of this chapter. "Importer" does not include anyone who only performs a service for the person

who furthers the marketing, i.e., brokers, jobbers, or warehousers.

(c) *Manufacturer* means any person, including any importer, repacker and/or relabeler, who manufactures, prepares, propagates, compounds, assembles, or processes a device or engages in any of the activities described in § 807.3(d) of this chapter.

(d) *Device failure* means the failure of a device to perform or function as intended, including any deviations from the device's performance specifications or intended use.

(e) *Serious adverse health consequences* means any significant adverse experience related to a device, including device-related events which are life-threatening or which involve permanent or long-term injuries or illnesses.

(f) *Permanently implantable device* means a device that is intended to be placed into a surgically or naturally formed cavity of the human body to continuously assist, restore, or replace the function of an organ system or structure of the human body throughout the useful life of the device. The term does not include any device which is intended and used for temporary purposes or which is intended for explantation.

(g) *Life-supporting or life-sustaining device used outside a device user facility* means a device which is essential, or yields information that is essential, to the restoration or continuation of a bodily function important to the continuation of human life that is intended for use outside a hospital, nursing home, ambulatory surgical facility, or diagnostic or outpatient treatment facility. Physicians' offices are not device user facilities and, therefore, devices used therein are subject to tracking if they otherwise satisfy the statutory and regulatory criteria.

(h) *Distributor* means any person who furthers the distribution of a device from the original place of manufacture to the person who makes delivery or sale to the ultimate user, i.e., the final or multiple distributor but who does not repackage or otherwise change the container, wrapper, or labeling of the device or device package.

(i) *Final distributor* means any person who distributes a tracked device intended for use by a single patient over the useful life of the device to the patient. This term includes, but is not limited to, licensed practitioners, retail pharmacies, hospitals, and other types of device user facilities.

(j) *Distributes* means any distribution of a tracked device, including the charitable distribution of a tracked device. This term does not include the distribution of a device under an effective investigational device exemption in accordance with section 520 (g) of the act and part 812 of this chapter or the distribution of a device for teaching, law enforcement, research, or analysis as specified in § 801.125 of this chapter.

(k) *Multiple distributor* means any device user facility, rental company, or any other entity that distributes a life-sustaining or life-supporting device intended for use by more than one patient over the useful life of the device.

(l) *Licensed practitioner* means a physician, dentist, or other health care practitioner licensed by the law of the State in which he or she practices to use or order the use of the tracked device.

(m) Any term defined in section 201 of the act shall have the same definition in this part.

Subpart B—Tracking Requirements

§ 821.20 Devices subject to tracking.

(a) A manufacturer of any device the failure of which would be reasonably likely to have a serious adverse health consequence, that is either a life-sustaining or life-supporting device used outside of a device user facility or a permanently implantable device, or a manufacturer of any other device that FDA, in its discretion, designates for tracking, shall track that device in accordance with this part.

(b) Manufacturers have the responsibility to identify devices that meet the criteria for tracking and to initiate tracking. By way of illustration and to provide guidance, FDA has set out below a list of example devices it regards as subject to tracking under the criteria set forth in this regulation.

(1) PERMANENTLY IMPLANTABLE DEVICES

21 CFR	Classification
870.3260	Vena cava clip.
870.3375	Cardiovascular intravascular filter.
870.3450	Vascular graft prosthesis of less than 6 millimeters diameter.
870.3460	Vascular graft prosthesis of 6 millimeters and greater diameter.
870.3470	Intracardiac patch or pledget made of polypropylene, polyethylene terephthalate, or polytetrafluoroethylene.
870.3545	Ventricular bypass (assist) device.
870.3610	Implantable pacemaker pulse generator.
870.3680	Cardiovascular permanent pacemaker electrode.
870.3800	Annuloplasty ring.
870.3925	Replacement heart valve.
(no cite)	Automatic implantable cardioverter/defibrillator.
878.3720	Tracheal prosthesis.
882.5150	Intravascular occluding catheter.
882.5200	Aneurysm clip.
882.5550	Central nervous system fluid shunt and components.

(1) PERMANENTLY IMPLANTABLE DEVICES—Continued

21 CFR	Classification
882.5820	Implanted cerebellar stimulator.
882.5830	Implanted diaphragmatic/phrenic nerve stimulator.
882.5950	Artificial embolization device.
888.3050	Spinal interlaminal fixation orthosis.
888.3060	Spinal intervertebral body fixation orthosis.

(2) LIFE-SUSTAINING OR LIFE-SUPPORTING DEVICES USED OUTSIDE DEVICE USER FACILITIES

21 CFR	Classification
868.2375	Breathing frequency monitors (apnea monitors).
868.2700	Pressure regulator, including mechanical oxygen regulators.
868.5440	Portable oxygen generator, including oxygen concentrators.
868.5655	Portable liquid oxygen unit.
868.5800	Tracheostomy tube and tube cuff.
868.5895	Continuous ventilator.
868.5905	Noncontinuous ventilator (IPPB).
870.5300	DC-defibrillator (including paddles).
876.5630	Peritoneal dialysis system and accessories, including: Chronic ambulatory (adult) and chronic pediatric (infant) peritoneal dialysis systems.
880.5725	Infusion pumps.

(c) FDA designates the following devices as subject to tracking. Manufacturers must track these devices in accordance with this part.

21 CFR	Classification
878.3530	Silicone inflatable breast prosthesis.
878.3540	Silicone gel-filled breast prothesis.
876.3750	Testicular prosthesis, silicone gel-filled.
(no cite)	Silicone gel-filled chin prosthesis.
(no cite)	Silicone gel-filled angel chik reflux valve.

(d) FDA, when responding to premarket notification submissions and approving premarket approval applications, will notify the sponsor that FDA believes the device meets the criteria of section 519(e)(1) and therefore should be tracked. FDA will also, after notifying the sponsor, publish a notice in the **Federal Register** announcing that FDA believes a new generic type of device is subject to tracking and soliciting comment on FDA's position. If the device is a new generic type of device not already on the example list above, FDA will add it to this list.

§ 821.25 Device tracking system and content requirements: manufacturer requirements.

(a) A manufacturer of a tracked device shall adopt a method of tracking for each such type of device that it

distributes that enables a manufacturer to, within 3 working days of a request from FDA, provide FDA with the following information in writing for each tracked device distributed:

(1) Prior to the distribution of a tracked device to a multiple distributor or a patient, the name, address, and telephone number of the distributor or final distributor holding the device for distribution and the location of the device;

(2) For life-sustaining or life-supporting devices used outside a device user facility that are intended for use by a single patient over the life of the device and permanent implants that are tracked devices, after distribution to or implantation in a patient:

(i) The model number of the device or other identifier that identifies each unique version of the device;

(ii) The serial number of the device or other identifier that is unique to that individual device;

(iii) The date the device was shipped by the manufacturer;

(iv) The name, address, telephone number, and social security number (if available) of the patient receiving the device;

(v) The date the device was provided to the patient;

(vi) The name, mailing address, and telephone number of the prescribing physician;

(vii) The name, mailing address, and telephone number of the physician regularly following the patient if different than the prescribing physician; and

(viii) If applicable, the date the device was explanted and the name, mailing address, and telephone number of the explanting physician; the date of the patient's death; or the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(3) For life-sustaining or life-supporting devices used outside device user facilities that are intended for use by more than one patient and that are tracked devices, after the distribution of the device to the multiple distributor:

(i) The model number of the device or other identifier that identifies each unique version of the device;

(ii) The serial number of the device or other identifier that is unique to that individual device;

(iii) The date the device was shipped by the manufacturer;

(iv) The name, address, and telephone number of the multiple distributor;

(v) The name, address, telephone number, and social security number (if available) of the patient using the device;

(vi) The location of the device;

(vii) The date the device was provided for use by the patient;

(viii) The name, address, and telephone number of the prescribing physician; and

(ix) If and when applicable, the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(b) A manufacturer of a tracked device shall keep current records in accordance with its standard operating procedure of the information identified in paragraphs (a)(1), (a)(2) and (a)(3)(i) through (a)(3)(iv) of this section on each tracked device released for distribution for as long as such device is in use or in distribution for use.

(c) A manufacturer of a tracked device shall establish a written standard operating procedure for the collection, maintenance, and auditing of the data specified in paragraphs (a) and (b) of this section. A manufacturer shall make this standard operating procedure available to FDA upon request. A manufacturer shall incorporate the following into the standard operating procedure:

(1) Data collection and recording procedures, which shall include a procedure for recording when data which is required under this part is missing and could not be collected and the reason why such required data is missing and could not be collected;

(2) A method for recording all modifications or changes to the tracking system or to the data collected and maintained under the tracking system, reasons for any modification or change, and dates of any modification or change. Modification and changes included under this requirement include modifications to the data (including termination of tracking), the data format, the recording system, and the file maintenance procedures system; and

(3) A quality assurance program that includes an audit procedure to be run at not less than 6-month intervals for each device product line subject to tracking, which audit procedure shall provide for statistically relevant sampling of the data collected to ensure the accuracy of data and performance testing of the functioning of the tracking system.

(d) When a manufacturer becomes aware that a distributor, final distributor or multiple distributor has not collected, maintained, or furnished any record or information required by this part, the manufacturer shall cease further distribution of tracked devices to such person and shall notify the FDA district office responsible for the area in which the distributor, final distributor, or multiple distributor is located of the failure of such persons to comply with the requirements of this part.

Subpart C—Additional Requirements and Responsibilities

§ 821.30 Tracking obligations of persons other than device manufacturers: distributor requirements.

(a) A distributor, final distributor, or multiple distributor of any tracked device shall, upon purchasing or otherwise acquiring any interest in such a device, promptly provide the manufacturer tracking the device with the following information:

(1) The model number of the device or other identifier that identifies each unique version of the device;

(2) The serial number of the device or other identifier that is unique to that individual device;

(3) The date the device was received;

(4) The person from whom the device was received;

(5) If and when applicable, the date the device was explanted, the date of the patient's death, or the date the device was returned to the distributor, permanently retired from use, or otherwise permanently disposed of.

(b) A final distributor, upon sale or other distribution of a tracked device for use in or by the patient, shall promptly provide the manufacturer tracking the device with the following information:

(1) The model number of the device or other identifier that identifies each unique version of the device;

(2) The serial number of the device or other identifier that is unique to that individual device;

(3) The name, address, telephone number, and social security number (if available) of the patient receiving the device;

(4) The date the device was provided to the patient or for use in the patient;

(5) The name, mailing address, and telephone number of the prescribing physician;

(6) The name, mailing address, and telephone number of the physician regularly following the patient if different than the prescribing physician; and

(7) When applicable, the date the device was explanted and the name, mailing address, and telephone number of the explanting physician, the date of the patient's death, or the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(c)(1) A multiple distributor shall keep written records of the following each

time such device is distributed for use by a patient:

(i) The model number of the device or other identifier that identifies each unique version of the device;

(ii) The serial number of the device or other identifier that is unique to that individual device;

(iii) The name, address, telephone number, and social security number (if available) of the paitent using the device;

(iv) The location of the device;

(v) The date the device was provided for use by the patient;

(vi) The name, address, and telephone number of the prescribing physician;

(vii) The name, address, and telephone number of the physician regularly following the patient if different than the prescribing physician; and

(viii) When applicable, the date the device was permanently retired from use or otherwise permanently disposed of.

(2) Any person who is a multiple distributor subject to the recordkeeping requirement of paragraph (c)(1) of this section shall, within 2 working days of a request from the manufacturer or within 3 working days of a request from FDA for the information identified in paragraph (c)(1) of this section, provide such information to the manufacturer or FDA.

Subpart D—Records and Inspections

§ 821.50 Availability.

(a) Manufacturers, distributors, multiple distributors, and final distributors shall, upon the presentation by an FDA representative of official credentials and the issuance of Form FD 482 at the initiation of an inspection of an establishment or person under section 704 of the act, make each record and all information required to be collected and maintained under Part 821 and all records and information related to the events and persons identified in such records available to FDA personnel.

(b) Records and information referenced in paragraph (a) of this section shall be available to FDA personnel for purposes of reviewing, copying, or any other use related to the enforcement of the act and this part.

§ 821.55 Confidentiality.

(a) Records and other information submitted to FDA under this part shall be protected from public disclosure to the extent permitted under part 20 of this chapter, and in accordance with § 20.63 information contained in such records that would identify patient or research subjects shall not be available for public disclosure except as provided in those parts.

(b) Patient names or other identifiers may be disclosed to a manufacturer or other person subject to this part or to a physician when the health or safety of the patient requires that such persons have access to this information. Such notification will be pursuant to agreement that the record or information will not be further disclosed except as the health aspects of the patient requires. Such notification does not constitute public disclosure and will not trigger the availability of the same information to the public generally.

§ 821.60 Retention of records.

Persons required to maintain records under this part shall maintain such records for the useful life of each tracked device they manufacture or distribute. The useful life of a device is the time a device is in use or in distribution for use. For example, a record may be retired if the person maintaining the record becomes aware of the fact that the device is no longer in use, has been explanted, returned to the manufacturer, or the patient has died.

David A. Kessler,

Commissioner of Food and Drugs.

Dated: March 5, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 92-7074 Filed 3-26-92; 8:45 am]

BILLING CODE 4160-01-M

federal register

Friday
March 27, 1992

Part III

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for February 1992

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-53152; FRL 4054-7]

Premanufacture Notices; Monthly Status Report for February 1992

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for February 1992.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Docket Office NE-G004 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "(OPPTS-53152)" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during FEBRUARY; (b) PMNs received previously and still under review at the end of FEBRUARY; (c) PMNs for which the notice review period has ended during FEBRUARY; (d) chemical substances for which EPA has received a notice of commencement to manufacture during FEBRUARY; and (e) PMNs for which the review period has been suspended. Therefore, the FEBRUARY 1992 PMN Status Report is being published.

Dated: March 23, 1992.

Douglas W. Sellers,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

Premanufacture Notice Monthly Status Report for FEBRUARY 1992.

I. 135 Premanufacture notices and exemption requests received during the month:

PMN No.

P 92-0472 P 92-0473 P 92-0474 P 92-0475
P 92-0476 P 92-0477 P 92-0478 P 92-0479
P 92-0480 P 92-0481 P 92-0482 P 92-0483
P 92-0484 P 92-0485 P 92-0486 P 92-0487
P 92-0488 P 92-0489 P 92-0490 P 92-0491
P 92-0492 P 92-0493 P 92-0494 P 92-0495
P 92-0496 P 92-0497 P 92-0498 P 92-0499
P 92-0500 P 92-0501 P 92-0502 P 92-0503
P 92-0504 P 92-0505 P 92-0506 P 92-0507
P 92-0508 P 92-0509 P 92-0510 P 92-0511
P 92-0512 P 92-0513 P 92-0514 P 92-0515
P 92-0516 P 92-0517 P 92-0518 P 92-0519
P 92-0520 P 92-0521 P 92-0522 P 92-0523
P 92-0524 P 92-0525 P 92-0526 P 92-0527
P 92-0528 P 92-0529 P 92-0530 P 92-0531
P 92-0532 P 92-0533 P 92-0534 P 92-0535
P 92-0536 P 92-0537 P 92-0538 P 92-0539
P 92-0540 P 92-0541 P 92-0542 P 92-0543
P 92-0544 P 92-0545 P 92-0546 P 92-0553
P 92-0554 P 92-0555 P 92-0556 P 92-0557
P 92-0558 P 92-0559 P 92-0560 P 92-0561
P 92-0562 P 92-0563 P 92-0564 P 92-0565
P 92-0566 P 92-0567 P 92-0568 P 92-0569
P 92-0570 P 92-0571 P 92-0572 P 92-0573
P 92-0574 P 92-0575 P 92-0576 P 92-0577
P 92-0578 P 92-0579 P 92-0580 P 92-0581
P 92-0582 P 92-0583 P 92-0584 P 92-0585
P 92-0586 P 92-0587 P 92-0588 P 92-0589
P 92-0590 P 92-0591 P 92-0592 P 92-0593
P 92-0594 P 92-0595 P 92-0596 P 92-0597
P 92-0598 P 92-0599 P 92-0600 P 92-0601
P 92-0602 P 92-0604 P 92-0605 P 92-0606
Y 92-0097 Y 92-0098 Y 92-0099 Y 92-0100
Y 92-0101 Y 92-0102 Y 92-0103

II. 360 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 83-0237 P 85-0433 P 85-0612 P 85-0619
P 85-1184 P 86-0066 P 86-1315 P 86-1489
P 86-1607 P 87-0105 P 87-0323 P 87-0502
P 87-1872 P 88-0998 P 88-1271 P 88-1272
P 88-1273 P 88-1274 P 88-1460 P 88-1682
P 88-1753 P 88-1937 P 88-1938 P 88-1980
P 88-1982 P 88-1984 P 88-1985 P 88-1999
P 88-2000 P 88-2001 P 88-2100 P 88-2169
P 88-2196 P 88-2212 P 88-2213 P 88-2228
P 88-2229 P 88-2230 P 88-2236 P 88-2484
P 88-2518 P 88-2529 P 89-0254 P 89-0321
P 89-0396 P 89-0538 P 89-0632 P 89-0676
P 89-0721 P 89-0770 P 89-0775 P 89-0836
P 89-0837 P 89-0867 P 89-0957 P 89-0958
P 89-0959 P 89-0963 P 89-1038 P 89-1058
P 89-1062 P 90-0002 P 90-0009 P 90-0158
P 90-0159 P 90-0211 P 90-0237 P 90-0248
P 90-0249 P 90-0260 P 90-0261 P 90-0262
P 90-0263 P 90-0372 P 90-0441 P 90-0550
P 90-0558 P 90-0564 P 90-0581 P 90-0603
P 90-0608 P 90-1280 P 90-1318 P 90-1319
P 90-1320 P 90-1321 P 90-1322 P 90-1358
P 90-1422 P 90-1527 P 90-1528 P 90-1529
P 90-1530 P 90-1531 P 90-1564 P 90-1592
P 90-1624 P 90-1635 P 90-1687 P 90-1718
P 90-1720 P 90-1722 P 90-1723 P 90-1745
P 90-1840 P 90-1893 P 90-1937 P 90-1965
P 90-1984 P 90-1985 P 91-0004 P 91-0051
P 91-0101 P 91-0102 P 91-0107 P 91-0108
P 91-0109 P 91-0110 P 91-0111 P 91-0112
P 91-0113 P 91-0118 P 91-0222 P 91-0228
P 91-0230 P 91-0231 P 91-0232 P 91-0233
P 91-0242 P 91-0243 P 91-0244 P 91-0245
P 91-0246 P 91-0247 P 91-0248 P 91-0288
P 91-0328 P 91-0358 P 91-0442 P 91-0464
P 91-0465 P 91-0466 P 91-0467 P 91-0468
P 91-0469 P 91-0470 P 91-0471 P 91-0472
P 91-0487 P 91-0490 P 91-0501 P 91-0503
P 91-0514 P 91-0521 P 91-0532 P 91-0548
P 91-0572 P 91-0584 P 91-0619 P 91-0659
P 91-0665 P 91-0666 P 91-0688 P 91-0689
P 91-0701 P 91-0732 P 91-0763 P 91-0818
P 91-0826 P 91-0827 P 91-0831 P 91-0853
P 91-0902 P 91-0903 P 91-0905 P 91-0912
P 91-0914 P 91-0915 P 91-0934 P 91-0939
P 91-0940 P 91-0941 P 91-0968 P 91-1000
P 91-1009 P 91-1010 P 91-1011 P 91-1012
P 91-1013 P 91-1014 P 91-1015 P 91-1016
P 91-1017 P 91-1018 P 91-1019 P 91-1020
P 91-1021 P 91-1022 P 91-1023 P 91-1024
P 91-1025 P 91-1026 P 91-1027 P 91-1028
P 91-1029 P 91-1030 P 91-1031 P 91-1032
P 91-1033 P 91-1034 P 91-1035 P 91-1036
P 91-1037 P 91-1038 P 91-1039 P 91-1040
P 91-1041 P 91-1042 P 91-1043 P 91-1044
P 91-1045 P 91-1046 P 91-1047 P 91-1048
P 91-1049 P 91-1050 P 91-1051 P 91-1052
P 91-1053 P 91-1054 P 91-1055 P 91-1056
P 91-1057 P 91-1058 P 91-1059 P 91-1060
P 91-1061 P 91-1062 P 91-1063 P 91-1064
P 91-1065 P 91-1066 P 91-1067 P 91-1068
P 91-1069 P 91-1070 P 91-1071 P 91-1072
P 91-1073 P 91-1074 P 91-1075 P 91-1077
P 91-1116 P 91-1117 P 91-1118 P 91-1131
P 91-1161 P 91-1163 P 91-1190 P 91-1191
P 91-1206 P 91-1210 P 91-1243 P 91-1279
P 91-1280 P 91-1281 P 91-1282 P 91-1283
P 91-1289 P 91-1297 P 91-1298 P 91-1299
P 91-1321 P 91-1322 P 91-1323 P 91-1324
P 91-1328 P 91-1346 P 91-1361 P 91-1364
P 91-1367 P 91-1368 P 91-1369 P 91-1371
P 91-1372 P 91-1379 P 91-1384 P 91-1386
P 91-1392 P 91-1394 P 91-1409 P 91-1418
P 91-1456 P 91-1464 P 92-0001 P 92-0002
P 92-0003 P 92-0031 P 92-0032 P 92-0033
P 92-0034 P 92-0035 P 92-0036 P 92-0044
P 92-0048 P 92-0063 P 92-0066 P 92-0067
P 92-0068 P 92-0129 P 92-0156 P 92-0157
P 92-0159 P 92-0168 P 92-0169 P 92-0177
P 92-0210 P 92-0217 P 92-0233 P 92-0244
P 92-0245 P 92-0246 P 92-0247 P 92-0248
P 92-0249 P 92-0250 P 92-0251 P 92-0266
P 92-0278 P 92-0283 P 92-0294 P 92-0306
P 92-0314 P 92-0315 P 92-0320 P 92-0329
P 92-0341 P 92-0343 P 92-0344 P 92-0377
P 92-0386 P 92-0396 P 92-0399 P 92-0400
P 92-0401 P 92-0402 P 92-0403 P 92-0412
P 92-0431 P 92-0432 P 92-0433 P 92-0435
P 92-0436 P 92-0437 P 92-0445 P 92-0446
P 92-0450 P 92-0459 P 92-0467 P 92-0471

III. 112 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 89-0089	P 89-0090	P 89-0091	P 89-0385
P 89-0386	P 89-0387	P 90-0707	P 91-0572
P 91-1269	P 91-1338	P 91-1439	P 92-0179
P 92-0180	P 92-0181	P 92-0182	P 92-0183
P 92-0184	P 92-0185	P 92-0186	P 92-0187
P 92-0188	P 92-0189	P 92-0190	P 92-0191
P 92-0192	P 92-0193	P 92-0194	P 92-0195
P 92-0196	P 92-0197	P 92-0198	P 92-0199
P 92-0200	P 92-0201	P 92-0202	P 92-0203
P 92-0204	P 92-0205	P 92-0206	P 92-0207
P 92-0208	P 92-0209	P 92-0211	P 92-0212
P 92-0213	P 92-0214	P 92-0215	P 92-0216
P 92-0218	P 92-0219	P 92-0220	P 92-0221
P 92-0222	P 92-0223	P 92-0224	P 92-0225
P 92-0226	P 92-0227	P 92-0228	P 92-0229
P 92-0230	P 92-0231	P 92-0234	P 92-0235
P 92-0236	P 92-0237	P 92-0238	P 92-0239
P 92-0240	P 92-0241	P 92-0242	P 92-0243
P 92-0252	P 92-0253	P 92-0254	P 92-0255
P 92-0256	P 92-0257	P 92-0258	P 92-0259
P 92-0260	P 92-0261	P 92-0262	P 92-0263
P 92-0264	P 92-0265	P 92-0267	P 92-0268
P 92-0269	P 92-0270	P 92-0271	P 92-0272
P 92-0273	P 92-0274	P 92-0275	P 92-0276
P 92-0292	Y 92-0087	Y 92-0088	Y 92-0089
Y 92-0090	Y 92-0091	Y 92-0092	Y 92-0093
Y 92-0094	Y 92-0095	Y 92-0096	Y 92-0097
Y 92-0098	Y 92-0099	Y 92-0100	Y 92-0101

IV. 75 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/Generic Name	Date of Commencement
P 85-0189	G Alkyl alkoxy siloxane.	February 28, 1985.
P 85-0612	G Polymer of substituted aryl olefin.	January 17, 1991.
P 85-0914	G Trisubstituted triazole.	December 27, 1991.
P 86-0066	G Substituted triazine isocyanurate.	July 12, 1989.
P 86-0579	G Diphenol dicyanate.	August 13, 1986.
P 86-1685	G Styrenated acrylic.	January 16, 1992.
P 87-0910	2-Cyclopentene-1-acetic acid.	June 14, 1988.
P 87-1225	Poly(oxy-1,2-ethanediyl), alpha-hydro-omega-hydroxy, poly(oxy(methyl-1,2-ethanediyl)), alpha-hydroxy-omega-hydroxy-, polymer w/1,1'-methylene bis(4-isocyanate cyclohexane), and 2-butanone oxime..	December 16, 1987.
P 87-1369	G Sodium methyl naphthalene sulfonate, condensed.	December 9, 1991.
P 87-1397	G Alkanolamine salt of an aqueous acrylic emulsion.	January 21, 1992.
P 87-1398	G Alkanolamine salt of an aqueous acrylic emulsion.	January 20, 1992.
P 88-0579	G Calcium salt of glycine derivative.	November 10, 1988.
P 88-0853	G Self-crosslinking, block polyurethane system.	December 27, 1991.
P 88-1753	G Bis(substituted)carbomonocyclic azo)-carbomonocyclicol.	February 14, 1990.
P 89-0033	G Polyester, rosin carboxylated.	January 28, 1992.
P 89-0579	G Amine neutralized hydroxyl dialkyl phosphorus dithiate.	January 15, 1992.
P 89-0632	4-Piperidinamine, *N*-butyl-2,2,6,6-tetramethyl; 1,3-propanediamine,*N,N'*-1,2-ethandiyl bis-; 1,3,5-triazine,2,4,6-trichloro-.	June 23, 1991.
P 89-0653	G Copolymer.	October 31, 1989.
P 89-0697	G Alkenoic acid, trisubstituted benzyl-disubstituted-phenyl ester.	October 23, 1990.
P 89-0770	G Oils, glyceridic, palm kernel (or coconut oil), reaction products with tetra-hydroxy branched alkane esters of tri-substituted benzene-propanoic acid..	February 1, 1990.
P 89-1062	G Polyether amide.	June 1, 1991.
P 90-0365	G Aromatic dicarboxylic acid triaromatic polyester.	January 11, 1992.
P 90-1635	Benzenepropanoic acid, 3-(2*H*-benzotriazol-2-yl-)-5-(1,1-dimethylethylethyl)-4-hydroxyl-, C_{7-9} alkyl, branched and linear, esters.	January 18, 1991.
P 90-1822	Acetic acid, hydroxyphosphono-, disodium salt.	January 15, 1992.
P 91-0020	G Crosslinked polymer.	December 4, 1991.
P 91-0130	G Triazinyl reactive mono azo dye.	February 5, 1991.
P 91-0366	G Fluorochemical salt.	January 21, 1992.
P 91-0738	1,2-Bis(diphenyl phosphino)ethane.	January 13, 1992.
P 91-0784	G Chlorinated diene polymer.	January 15, 1992.
P 91-0803	G Modified alkyd resin.	January 23, 1992.
P 91-0901	G Styrene acrylic polymer.	January 9, 1992.
P 91-0927	G Substituted polyoxyalkyl aromatic amine tint.	January 23, 1992.
P 91-1112	G Basic dye toner SM.	January 21, 1992.
P 91-1122	G ((Dialkylcarbomonocyclic)amino)xanthylium salt, methylhetero-monocycle, phenylheteromonocyclic formal polymer, acid salt.	December 9, 1991.
P 91-1152	G Organopolysiloxane.	November 5, 1991.
P 91-1164	G Hindered amine carboxylate.	January 28, 1992.
P 91-1213	G Reaction product of alkyl thioalcohol,and substituted phosphate.	January 27, 1992.
P 91-1216	G Acrylic copolymer.	January 28, 1992.
P 91-1246	G Acrylic acid esters/acrylonitrile copolymer.	January 16, 1992.
P 91-1260	G Organic salt.	December 27, 1991.
P 91-1290	G Methyl methacrylate butadiene styrene (MBS) copolymer.	January 8, 1992.
P 91-1296	G Monoester of 2-propenoic acid, 2-hydroxyethyl ester and aliphatic isocyanate.	December 10, 1991.
P 91-1332	Phosphorothioic acid, *O,O*-bis(2-methylpropyl)ester, sodium salt.	January 21, 1992.
P 91-1334	G Polyvinylsulfone.	January 14, 1992.
P 91-1344	G Polyamide.	November 23, 1991.
P 91-1345	G Alkyd resin.	November 23, 1991.
P 91-1381	G Quaternary ammonium salt.	January 13, 1992.
P 91-1396	Hexanoic acid, 6,6'6''-(1,3,5-triazine-2,4,6-triyltrimino)tris-, tripotassium salt.	January 15, 1992.
P 91-1398	Hexanoic acid, 6,6,6''-(1,3,5-triazine-2,4,6-triyltrimino)tris-, trisodium salt.	January 15, 1992.
P 91-1437	G Aliphatic-aromatic carboxylate complex.	January 29, 1992.
P 91-1438	G Aliphatic-aromatic carboxylate complex.	January 29, 1992.
P 91-1440	G Substituted polyoxyalkylene aniline.	January 29, 1992.
P 92-0042	G Calcium amate-dicarboxylate salt paraffinic mineral oil.	January 30, 1992.
P 92-0058	G Sodium salt of substituted naphthalene disulphonic acid.	January 24, 1992.
P 92-0130	G Amine capped polyester polyurethane.	January 15, 1992.
Y 90-0288	G Benzene, ethenylethyl-, polymer with butyl-2-propenoate, diethylbenzene, ethoxylbenzene and (1-methylethenyl)benzene.	February 3, 1992.
Y 91-0083	G Polymer of aliphatic acids, aromatic acids, and aliphatic diols, and lactones.	January 28, 1992.
Y 91-0144	G High solids long oil alkyd resin.	January 17, 1992.
Y 91-0169	G Aqueous acrylic polymer.	January 23, 1992.
Y 91-0189	G Styrenated acrylic copolymer.	December 27, 1991.
Y 91-0190	G Styrenated acylic copolymer.	December 27, 1991.
Y 91-0219	G Poly-alpha-alkene.	December 14, 1991.

IV. 75 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/Generic Name	Date of Commencement
Y 91-0231	G Carboxylated acrylic copolymer	December 16, 1991.
Y 92-0031	G Dibasic acid glycol polyester	January 10, 1992.
Y 92-0039	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0040	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0041	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0042	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0043	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0044	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0045	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0046	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0047	G Saturated polyester, modified with glycidyl compound	January 25, 1992.
Y 92-0053	G Aqueous acrylic polymer	December 17, 1991.
Y 92-0067	Adipic acid and phthalic anhydride, polymer with propylene glycol hydrogenated coco fatty acid ester	January 20, 1992.

V. 12 Premanufacture notices for which the period has been suspended.

PMN No.

P 88-2196 P 91-0222 P 91-1464 P 92-0031
P 92-0032 P 92-0033 P 92-0169 P 92-0210
P 92-0217 P 92-0233 P 92-0266 Y 92-0096

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BILLING CODE 6560-50-F

federal register

Friday
March 27, 1992

Part IV

Department of Education

National Science Foundation

34 CFR Part 652

National Science Scholars Program; Final Rule and Notice

DEPARTMENT OF EDUCATION
NATIONAL SCIENCE FOUNDATION
34 CFR Part 652

RIN 1840-AB49

National Science Scholars Program

AGENCY: Department of Education and National Science Foundation.

ACTION: Final regulations.

SUMMARY: The Secretary of Education (Secretary) issues final regulations governing the National Science Scholars Program (NSSP) in accordance with the provisions of the NSSP authorizing legislation in title VI, part A, of the Excellence in Mathematics, Science and Engineering Education Act of 1990, Public Law 101-589 (the Act). These regulations specify the role of the Secretary and the responsibilities of Chief State School Officers, State nominating committees, and institutions of higher education in the administration of the program. The regulations also specify the applicant eligibility requirements and the selection criteria by which National Science Scholars (Scholars) are nominated and receive scholarships and describe the responsibilities of the Scholars. The Secretary and the Director of the National Science Foundation (Director) jointly issue § 652.32 of the regulations, containing the selection criteria to which applicants must respond and which State nominating committees must apply in selecting scholarship nominees for submission to the President.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments, with the exception of §§ 652.21, 652.51 and 652.53. Sections 652.21, 652.51 and 652.53 will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. Those wishing to know the effective date of these regulations may call or write the Department of Education contact person listed below. A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Steve Wingard, Charles Brazil, or Denise Boulanger, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., Regional Office Building 3, room 4018, Washington, DC 20202-5447, Telephone (202) 708-4607. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: These regulations implement the NSSP, enacted under the Excellence in Mathematics, Science and Engineering Act of 1990 (Pub. L. 101-589) on November 16, 1990, as amended by Pub. L. 102-103, section 314(a), on August 8, 1991. The NSSP supports the President's AMERICA 2000 education strategy and National Education Goal 4, which calls for U.S. students to be first in the world in science and mathematics achievement by the year 2000. Specifically, the goals of this program will be to:

(1) Attract both men and women into these fields;

(2) Encourage men and women to pursue teaching careers in these fields, thereby improving student mathematics and science skills and knowledge among students at the primary and secondary level; and

(3) Increase the number of U.S. undergraduate students who complete degrees in mathematics, science, and engineering.

On September 24, 1991, the Secretary published a notice of proposed rulemaking (NPRM) for the National Science Scholars Program, 34 CFR part 652, in the **Federal Register** at 56 FR 48400. The NPRM included a discussion of the major issues in the proposed regulations. The following list identifies the different issues discussed and indicates the pages of the preamble to the NPRM on which the discussion of those issues is found:

- The definitions of the scholarship disciplines in § 652.6 of the proposed regulations (page 48400).
- The establishment, composition, and responsibilities of State nominating committees in §§ 652.20, 652.21, and 652.30 of the proposed regulations (page 48400).
- The selection criteria, jointly developed by the Secretary and the Director, to be used by State nominating committees to select Scholar nominees in § 652.32 of the proposed regulations (page 48401).
- The nomination of Scholars by the State nominating committees and selection of Scholars by the President in §§ 652.30 and 652.33 (page 48401).
- The student eligibility requirements in § 652.2 of the proposed regulations pertaining to a student who wishes to apply for an NSSP scholarship and separate requirements in proposed § 652.40 that must be met by a Scholar in order to receive a scholarship (page 48401).
- Other scholarship considerations in section 603(a)(1) of the Act that permit the Director and the Secretary to give consideration to the financial need of an individual seeking a scholarship and to promote participation by minorities and individuals with disabilities (page 48401).
- The requirements in § 652.42 of the proposed regulations that a Scholar must meet, including a high level of academic achievement, and other eligibility requirements to receive continuation awards after the Scholar's first academic year of attendance (page 48402).
- The waiver of full-time attendance under unusual circumstances as determined by a Scholar's institution of higher education as proposed in § 652.43(b) (page 48402).
- The provision in proposed § 652.44 permitting a Scholar's institution of higher education to determine that a Scholar may have his or her eligibility for an NSSP scholarship reinstated after a period of interruption or suspension (page 48402).
- The requirements in proposed § 652.51 that an institution of higher education must follow to administer the scholarships awarded under the NSSP (page 48402).

Major Changes to the NPRM

As a result of the comments received on the NPRM, the Secretary has made the following major changes in the final regulations:

- The eligibility requirements in §§ 652.2(d) and 652.40(b) were modified to exclude a student who will attend a U.S. service academy from eligibility to apply for, or receive, an NSSP scholarship.
- The requirement that State nominating committees establish administrative procedures to resolve conflicts of interest is clarified in § 652.21(c) of the final regulations to provide that these procedures be written administrative procedures as discussed in the preamble of the proposed regulations.
- Section 652.51(d) of the final regulations is added to allow the Scholar's institution of higher education to enter into a written agreement with another institution or organization so that the Scholar may receive funds under specified conditions for study at the other institution or organization.
- The Secretary is revising § 652.52 to provide rules for situations where a Scholar transfers to a different

institution of higher education during an award year.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 11 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows. Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor issues—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Section 652.1 What is the National Science Scholars Program?

Comment: One commenter requested that the Secretary clarify § 652.1(g) of the NPRM that discusses attracting talented students to teaching careers in mathematics and science because some applicants might argue that education majors were entitled to scholarships under the NSSP. Aother commenter asserted that references in the NPRM to teaching should be deleted since encouraging teaching careers is not a purpose of the program.

Discussion: Section 652.1 Discusses the general purposes of the NSSP. One of those purposes under section 601(a)(7) of the Act is to attract talented mathematics and science students to pursue careers in teaching. While a student majoring in education would not be eligible to receive funds under this program, a student pursuing a major in mathematics, science, or engineering and incorporating into his or her degree program the coursework necessary to qualify as a teacher may be eligible to be a Scholar.

Changes: None.

Section 652.2 Who is Eligible to Apply for a Scholarship Under This Program? and Section 652.40 What Requirements Must a Scholar Meet in Order to Receive a Scholarship?

Comments: One commenter requested clarification about whether students who attended the U.S. service academies such as the U.S. Naval Academy would be eligible to apply for the NSSP and, if so, how the Secretary would administer awards to these Scholars.

Discussion: The Secretary has determined that there are no costs incurred by students attending U.S. service academies. Since the amount of a scholarship awarded under this program is limited in section 605(b) of the Act to the Scholar's cost of attendance as defined in Part F of the Higher Education Act of 1965, as amended (HEA), students attending U.S. service academies do not qualify for scholarships under this program. A student who has accepted an appointment to a U.S. service academy cannot receive financial assistance to continue his or her postsecondary education, which is one of the purposes of the NSSP as stated in section 601(a)(2) of the Act. Therefore, the student would be ineligible to apply.

However, all students who apply to U.S. service academies are not ineligible. An otherwise eligible student under § 652.2 who applies to an academy, but has not yet been appointed, is eligible to apply for an NSSP scholarship. Such a student may be selected as a Scholar, accept the award, but then be notified of and accept an appointment to a U.S. service academy. The Secretary has determined that in this circumstance the student becomes ineligible to be a Scholar.

Because a Scholar becomes ineligible to receive an NSSP scholarship by accepting an appointment to a U.S. service academy, the Secretary would select an alternate NSSP Scholar from the same congressional district to receive the scholarship.

Changes: Section 652.2(d) of the proposed regulations is modified to exclude a student who has accepted an appointment to a U.S. service academy from eligibility to apply for an NSSP scholarship, and § 652.40(b) is also modified to clarify that Scholars appointed to U.S. service academies are ineligible to receive a scholarship.

Comment: One commenter recommended that the Secretary revise the requirement in § 652.2(c) that an applicant demonstrate outstanding academic achievement in secondary school in the scholarship disciplines by adding a provision that an applicant may qualify by demonstrating an "academic potential for outstanding work in such fields."

Discussion: Section 602(a)(2) of the Act requires that NSSP scholarships be awarded to students who have already demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering.

Changes: None.

Comment: One commenter proposed that the Secretary eliminate the eligibility requirement in § 652.2(d) that applicants declare their intention to undertake a program of study leading to a baccalaureate degree. The commenter believed that students who intended to go into programs that were directed at applied skills for employment in the mathematics and sciences should also be eligible for an NSSP scholarship.

Discussion: The Secretary believes that the purpose of the NSSP is to provide scholarships for the pursuit of a baccalaureate degree, including scholarships to students who enroll in educational programs for transfer to a baccalaureate degree program. For example, a student who enrolls at a community college in a program for transfer to a baccalaureate degree program would be eligible to apply; however, an individual pursuing a terminal occupational undergraduate program of study of less than 4 years would not be eligible to apply.

Changes: None.

Section 652.6 What Definitions Apply to This Program?

Comment: One commenter recommended that the definition for engineering be modified to read "Engineering means the science by which the properties of matter and the sources of energy in nature are made economically useful to humanity * * *."

Discussion: The Secretary believes that the field of engineering encompasses a broader scope of scientific exploration than just those that are "economically useful." Some engineering endeavors and accomplishments increase human knowledge without being immediately economically useful.

Changes: None.

Section 652.20 How Does a State Establish a Nominating Committee?

Comment: One commenter thought that the prescribed composition of the State nominating committee is too heavily weighted toward educators. Another commenter did not understand how an admissions officer from an institution of higher education could contribute to the committee and believed that the addition of this individual to the committee would cause an unnecessary increase in the State's administrative costs. Another commenter inquired about adding a financial aid officer to the committee to assist in financial need issues. A fourth commenter asked whether a State requiring a larger number of committee members would be limited to those specified in the NPRM.

Discussion: The composition of the State nominating committee is not limited to those individuals prescribed by the regulations. The regulations merely establish minimum requirements. The State, at its option, may appoint additional members to the committee from the education, business, or

scientific community that the State determines will best meet its needs in fulfilling its duties under the program.

The Secretary is requiring that an admissions officer be on the committee because an admissions officer is a professional involved with reviewing applicants for admission to colleges and universities. The Secretary believes that the experience of an admissions officer would provide members of the State nominating committee with insights into distinguishing the most outstanding applicants from among the applicants.

The information to determine financial need of an applicant is not available at the time an applicant is evaluated by a State nominating committee, and the addition of a financial aid officer's professional expertise is, thus, not required. However, a State is not prohibited from adding a financial aid officer to the membership of its State nominating committee.

Changes: None.

Section 652.21 What are the Responsibilities of a State and its Nominating Committees?

Comment: One commenter asked if a State could combine the NSSP application form with other application forms for such programs as the Robert C. Byrd Honors Scholarship Program or the Paul Douglas Teacher Scholarship Program. The commenter also asked if a State could use applications received from applicants for another scholarship program that had similar application requirements and evaluate those applicants for the NSSP. The commenter believed that this procedure would be less costly and more efficient for the State.

Discussion: The Secretary believes that some of the information required in the selection criteria in § 652.32 is unique to the NSSP. For example, the required essay must be on a topic that the applicant chooses and considers to be of interest to the nominating committee as an NSSP applicant, and the State nominating committee must determine the degree that the references chosen by the applicant reflect the applicant's qualifications for a National Science Scholarship. Because of these unique requirements, the Secretary does not believe that it is possible for an applicant to apply on a combined application or apply for another program and be considered for this program.

Changes: None.

Comment: One commenter thought that the requirement in § 652.21(c) that State nominating committees establish written procedures to resolve potential conflicts of interest would be burdensome to develop. Another commenter requested clarification of the requirement that these administrative procedures be written procedures because it was only stated in the preamble, and not in the regulations.

Discussion: The Secretary believes it is imperative that clear guidelines be established to prevent conflicts of interest from arising. Written procedures that establish requirements for resolution of conflicts of interest before a committee evaluates applications assure that all members have a mutual understanding of what the committee determines to be conflicts of interest and how the committee determines to resolve such conflicts. Written procedures covering conflicts of interest should leave little doubt among members of what constitutes such conflicts and prevent misunderstandings. Each State nominating committee has the sole responsibility to determine what constitutes a conflict of interest and to establish the guidelines to resolve a conflict.

Changes: The Secretary modifies § 652.21(c) to include the establishment of written administrative procedures.

Comment: One commenter suggested that the committee meet in a single joint meeting to review the applications and agree upon the nominees. This commenter suggested that applications be sent to committee members at their homes or businesses for review before the committee meets. Another commenter indicated that it was sometimes impossible for all members of a State nominating committee to meet at the same time and, even when all members could meet, it was impossible for all committee members to evaluate every National Science Scholars Program applicant. The commenter argued that State nominating committees should be given the authority to form subcommittees that could meet at different times, different locations, and even review different applications.

Discussion: In reviewing applications, the State nominating committee is responsible under § 652.21(c)(1) for the establishment of written internal administrative procedures for the timely submission, processing, and review of applications submitted by eligible students. The committee must as a group make the selection of nominees for the NSSP and should, in developing these procedures, consider that the purpose of establishing a broad-based committee is to bring the varying perspectives of its members to the evaluation of each application. However, the Secretary allows the committee to determine how best to fulfill the responsibilities of the committee to provide such a broad-based review of each applicant.

Changes: None.

Section 652.30 How are Scholars Nominated?

Comment: Several comments were received concerning the requirement in the proposed regulations that at least half of the nominees be female. One commenter requested clarification on the requirement that at least one-half of the nominees from a congressional district be female. The commenter stated that in the selection process for fiscal year 1991 there had been some question concerning the meaning of this requirement. Several commenters indicated that the regulations should require that exactly half of the nominees from a congressional district be female. Another commenter believed that the requirement should be eliminated. One commenter questioned why the Secretary left the requirement in the regulations because of the reference in the preamble of the proposed regulations to the President's proposal to eliminate this requirement as part of the reauthorization of the HEA.

Discussion: Section 603(b)(2) of the Act requires that at least one-half of the Scholars nominated from a congressional district be female. The Secretary does not have the authority to modify this requirement. The term "at least" means that it is possible for more than half of all nominees from a congressional district to be female. However, it is not possible for less than half to be female. For example, a nominating committee submits four nominees from each congressional district. The top four applicants in one district were female; therefore, all nominees from that district are female. In another congressional district the top four applicants are males, and the fifth and sixth top ranking applicants were female. The top two ranking males are selected, and the next two males are passed over for two females.

The President has proposed to eliminate the statutory requirement that at least half of the nominees and selected Scholars be female when the HEA is reauthorized. This part of the preamble was intended to inform the public of the President's intent to propose changes to a statutory requirement, not to indicate that the requirement had already been changed.

Changes: None.

Comment: One commenter asked if nominees were selected from the congressional district in which they

lived or from the congressional district where they attended school.

Discussion: Section 652.30(d) of the proposed regulations states, "Each State nominating committee shall submit to the President the nominations of at least four applicants legally residing in each congressional district in the State . . ."

Changes: None.

Section 652.32 What Selection Criteria Shall the State Nominating Committee Use?

Comment: A commenter expressed concerns about the number of applications that the State nominating committee would have to review unless the State could place a limit on the number of applicants who could apply. Others asked if States could screen applications for the committee, have high schools limit the number of applicants from their schools, or establish additional eligibility or selection criteria.

Discussion: Under Subpart C of the regulations, a State's responsibility is limited to establishing a State nominating committee, requiring the nominating committee to establish operating procedures, and maintaining applications and written procedures relating to the selection of nominees for a scholarship. A State does not have the authority to screen applications; further, neither a State nor a State nominating committee has the authority either to limit the number of applicants or to have high schools review eligible applications and make preselections for the committee.

The State's nominating committee is charged with developing operating procedures governing the scholarship nomination process, evaluating applications according to the selection criteria, and providing information on each nominee to the Secretary. The State nominating committee may not delegate its functions to others, directly limit the number of applicants, or establish additional eligibility or selection criteria in its operating procedures. However, the State nominating committee, under § 652.2(c) of the eligibility criteria in the NPRM, determines whether applicants have "demonstrated outstanding academic achievement in secondary school in the physical, life, or computer science, mathematics, or engineering." Thus, the State nominating committee may establish the level of academic performance, such as grade point averages, test scores, or both, that establishes "demonstrated outstanding achievement." Upon the request of a State nominating committee, a State agency may review applications on behalf of the State nominating committee to determine eligibility before forwarding them to the State nominating committee for evaluation. The State nominating committee would then need to verify the State agency's determinations of eligibility.

Changes: None.

Comment: Several commenters suggested the adoption of selection criteria to give stronger consideration to individuals who are economically disadvantaged, disabled, or from minority groups. These commenters argued that simply to promote the participation of these individuals in the program was not enough. One commenter recommended providing additional points to the selection criteria that could be added to an applicant's score if the applicant came from one of these backgrounds. Another suggested that financial need not be considered in the selection criteria but at the point when a Scholar enters an institution of higher education. This commenter believed that the amount of the scholarship should be decreased for those Scholars who demonstrated little financial need when entering the institution.

Discussion: Although the Secretary received comments that supported providing special consideration to those in financial need, commenters did not provide recommendations on how financial need could be considered during the application evaluation process, which falls outside the normal financial aid application timeframe. Under the Act the President must select Scholars by January 1 of their senior year in high school, which is also generally the earliest date on which students may submit applications for student financial assistance. It is the Secretary's view that, because of the incompatibility of the timeframes for the NSSP and the submission of a financial aid application, there is no feasible means of incorporating consideration of financial need into the application process.

While the Act in section 603(a)(1) provides for the promotion of the NSSP among individuals with disabilities or who are minorities, this provision is not one of the purposes of the NSSP as provided into section 601 of the Act. The Secretary believes that, if the program is promoted among minorities and the handicapped, outstanding individuals among these groups can successfully compete for an NSSP scholarship on their own merit without additional considerations.

The statute does not provide for an adjustment to the amount of a Scholar's award based upon financial need, *i.e.*, the difference between the cost of attendance at the Scholar's institution and the amount his or her family can reasonably expect to contribute toward meeting that cost. However, section 605(b) of the Act provides that a Scholar's award may not exceed his or her cost of attendance as defined in section 472 of the HEA.

Changes: None.

Comment: One commenter recommended and provided an extensive grading system to be used within the different parts of the selection criteria so that the selection process would be standardized.

Discussion: The Secretary does not believe it would be appropriate to codify grading or scoring systems within the selection criteria. It is the Secretary's belief that a State nominating committee should have some discretion in applying the selection criteria to NSSP applications within the State. However, the State nominating committee must carefully review the selection criteria and the purpose for which the criteria were developed before evaluating NSSP applicants. The State nominating committee must then consistently evaluate each application based on the selection criteria.

Changes: None.

Section 652.42 What are the Requirements for a Scholar to Continue to Receive Scholarship Payments Under the NSSP?

Comment: One commenter proposed to incorporate satisfactory progress standards used for the title IV, HEA programs into the regulations.

Discussion: Section 604(b)(1) of the Act requires that a Scholar maintain a high level of academic achievement to continue to receive a scholarship. Satisfactory progress standards for title IV, HEA programs only require that a student be making progress toward graduation, not that the progress show a high level of achievement.

Changes: None.

Section 652.43 What are the Consequences of a Scholar's Noncompliance With the Scholarship Eligibility Requirements in § 652.40 or § 652.42?

Comments: Some commenters wanted provisions added to the regulations that allow a Scholar to postpone an initial award if the Scholar does not intend to begin studying at his or her institution of higher education in the fall after his or her senior year in high school.

Discussion: The regulations allow a Scholar's institution of higher education to suspend a Scholar's eligibility for a

scholarship if the Scholar does not meet the requirements in § 652.40 and § 652.42. If a Scholar is not enrolling at an institution of higher education in the initial award year, the Scholar could request that his or her institution of higher education suspend the NSSP scholarship because he or she did not meet all the requirement in § 652.40. If the Scholar's institution agrees to suspend the award, the institution may consider reinstating the NSSP scholarship under § 652.44 as long as the suspension is no longer than 12 months and the Scholar meets the eligibility requirements in § 652.40. In exceptional circumstances as determined by the institution, the period of suspension may be greater than 12 months.

Changes: None.

Comment: One commenter contended that the provision under § 652.43(c) that requires proration of the NSSP scholarship payment for part-time attendance could cause undue hardship on handicapped students who, because of their handicap, could only attend college part-time. The commenter felt that full scholarship payment should be provided in these instances because the student might not otherwise be able financially to cover the total costs of education and would therefore not be able to participate in the NSSP.

Discussion: In section 602(b) of the Act the Secretary is authorized to pay an initial scholarship for a period of one academic year for the first year of undergraduate study, and additional scholarships for not more than three academic years of undergraduate study except in the case of a student who enrolls in an undergraduate course of study that requires attendance for five academic years, in which case the student could receive four additional scholarships. The Secretary in § 652.43(c) of the NPRM proposed the requirement that the institution of higher education which the Scholar attends prorate the scholarship amount for less than full-time attendance in order to assure that NSSP funds are available to the Scholar throughout the period of his or her undergraduate enrollment. For example, if a Scholar attends as a half-time student during the first two academic years he or she is enrolled, the Scholar would have used only one year of scholarship eligibility. This is because he or she used only one-half of a year of eligibility in each of those years. If the Scholar is enrolled in a four-year degree program, he or she has three years of eligibility remaining. The Secretary believes that in the case of a student with disabilities, scholarships should be prorated. Otherwise, the disabled Scholar would not have NSSP funds available throughout his or her baccalaureate program of study and would suffer a much greater hardship.

Changes: None.

Section 652.50 What Institutional Agreement is Required?

Comment: A commenter inquired if there were any circumstances where an institution might refuse to participate given the extensive administrative requirements imposed on institutions with NSSP Scholars. The commenter also asked if the Secretary could provide administrative relief if an institution needed to establish the program for one NSSP Scholar.

Discussion: Under section 603(d) of the Act, the Secretary must disburse scholarship proceeds to the Scholar's institution of higher education on behalf of the Scholar. The regulations were developed to align the program closely with other financial aid program administrative requirements. The Secretary, therefore, does not believe that the administrative requirements of the program create extensive new administrative requirements that institutions do not handle routinely.

An institution is not required to complete the institutional agreement. However, if an institution refuses to complete an agreement with the Secretary, an NSSP Scholar will be unable to receive the scholarship at that institution. Further, if the Scholar's institution refuses to complete the agreement in the Scholar's first year of undergraduate study at an institution of higher education, the Scholar becomes ineligible for continuation awards.

Changes: None.

Section 652.51 How are Scholarships to be Administered by Institutions of Higher Education?

Comment: One commenter inquired about instances when a Scholar takes courses at other institutions that apply toward the Scholar's baccalaureate degree and asked for provision for written agreements between institutions to assist these Scholars in paying the cost of these courses.

Discussion: The Secretary accepts the comment.

Changes: An additional provision is added at § 652.51(d) to allow for written agreements between institutions in accordance with the requirements for other Federal student assistance programs.

Comment: One commenter requested that the Secretary clarify how NSSP awards should be treated in conjunction with title IV funds.

Discussion: Section 605(b) of the Act provides that an NSSP scholarship cannot be reduced on the basis of receipt of other forms of Federal student financial assistance but must be taken into consideration when determining the Scholar's eligibility for those other forms of assistance. The scholarship is considered as a "resource" for the campus-based (Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant) programs in accordance with 34 CFR 674.14, 675.14, and 676.14 and as "estimated financial assistance" for the Guaranteed Student Loan (Stafford Loan, Supplemental Loans for Students, and PLUS) programs in accordance with 34 CFR 682.206. An institution of higher education must reduce a Scholar's Pell Grant if the NSSP scholarship plus the Pell Grant exceeds the Scholar's cost of attendance under section 472 of the HEA.

Changes: None.

Section 652.52 How are Scholarship Awards to be Made and Scholarship Proceeds Returned and Transferred?

Comment: One commenter requested clarification of the provision in § 652.52(a) that requires an institution to provide scholarship proceeds to a Scholar in at least two payments. The commenter asked if the institution's disbursements could be in unequal payments when unequal costs were incurred in different payment periods. The commenter also wanted to know how unequal disbursements, if allowed, would affect § 652.52(d) that requires prorations of the scholarship amount if a Scholar becomes ineligible for any part of an NSSP scholarship.

Discussion: If a scholar incurred unequal educational costs in two different payment periods, the institution is not prevented from providing funds in unequal amounts to assist the Scholar in covering those costs. In this instance, the institution would base the prorated amount of the refund on the amount disbursed during that payment period and the portion of the time in the payment period that the Scholar was eligible to receive the award.

Changes: None.

Comment: A commenter requested clarification concerning whether an institution had to monitor the classroom attendance of an NSSP scholar to determine if the Secretary was due a refund under § 652.52. The commenter felt that if monitoring classroom attendance was required it was unduly burdensome because most institutions do not keep these types of records. In

addition, two commenters objected to the requirement in § 652.52(c) that an institution prorate that portion of the NSSP scholarship award for any part of the academic period that a Scholar fails to complete. The commenters stated that the prorating of the scholarship proceeds is different from the title IV, HEA refund and repayment requirements and creates an additional administrative hardship that would be eliminated if the Secretary were consistent with other programs. One of these commenters requested that the Secretary allow some institutional discretion in prorating an NSSP scholarship if a Scholar withdraws for medical reasons.

Discussion: It is the responsibility of an institution of higher education to determine whether a Scholar is eligible for a scholarship before providing NSSP funds to that individual. An institution must be able to determine whether a Scholar attended class and the last date of attendance for a Scholar who ceases to attend. This determination can be made by course records, records of the last examinations taken by a Scholar, or other institutional records that determine the Scholar's last date of enrollment.

The Secretary recognizes that the *pro rata* requirement for the NSSP differs from those requirements governing the Title IV, HEA programs. However, the NSSP is not a Title IV program, and this requirement is consistent with other Federal programs administered by the Department of Education. In addition, the number of individuals receiving NSSP scholarships at any one time is limited, and the number of instances in which an institution would have to prorate a scholarship and make a refund, therefore, would not create an undue administrative burden on institutions. The Secretary does not believe there is a need for institutional discretion in determining whether an institution should prorate an NSSP award; proration is sufficient and provides for the best use of Federal funds.

Changes: None.

Comment: One commenter asked if it is the intent of the Secretary in § 652.52(c), which cross-referenced 34 CFR 690.79, Recovery of overpayments, to make Scholars who received NSSP overpayments ineligible for title IV assistance until resolution of the overpayment, as required in § 690.79(c). Another commenter believed that the overpayment provisions in § 652.52(c) were too stringent.

Discussion: It is the Secretary's duty to administer properly Federal programs and conserve the funds appropriated for these programs. One of the tools available to the Secretary to promote repayment in instances of overpayment is withholding additional program funds or funds from other programs.

Changes: None.

Comment: A commenter noted that the NPRM did not provide guidance to institutions in cases where a Scholar might transfer to another institution of higher education during an award year. The commenter inquired if the NSSP scholarship could be transferred.

Discussion: A scholar may transfer his or her scholarship to another institution of higher education during an award year. If the Scholar transfers during an award year, the Scholar would be eligible to continue to receive the remainder of the scholarship at the new institution as long as the new institution determined the Scholar met the provisions under §§ 652.40 and 652.42. If a Scholar transfers between award years, the institution reports information about the Scholar's transfer in its annual performance report. The Scholar's new institution then determines if the Scholar is eligible for a continuation award.

Changes: The Secretary adds § 652.52(e) which provides the procedures for institutions to follow if a Scholar transfers from one institution to another during an award year.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require the transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 652

Education, Grant programs-education, State administered-education, Student aid-education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance No. 84.242, National Science Scholars Program)

Dated: January 7, 1992.

Lamar Alexander,

Secretary of Education.

Dated: January 12, 1992.

Walter E. Massey,

Director, National Science Foundation.

The Secretary amends title 34 of the Code of Federal Regulations by adding a new part 652 to read as follows:

PART 652—NATIONAL SCIENCE SCHOLARS PROGRAM

Subpart A—General

Sec.

Subpart B—How Does a Student Apply for a Scholarship?

Subpart C—What Are the Administrative Responsibilities of a State?

Subpart D—How Are Scholars Nominated and Selected?

Subpart E—What Condition Must Be Met By Scholars?

Authority: 20 U.S.C. 5381 to 5386, unless otherwise noted.

Subpart A—General

§ 652.1 What is the National Science Scholars Program?

Under the National Science Scholars Program (NSSP) the Secretary awards scholarships to students who have demonstrated outstanding academic achievement, who show promise of continued outstanding academic performance, and who are selected by the President, for the following purposes:

(a) To recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering.

(b) To provide financial assistance to students to continue their postsecondary education in those fields of study at sustained outstanding levels of performance.

(c) To contribute to strengthening the leadership of the United States in those fields.

(d) To strengthen the United States' mathematics, science, and engineering base by offering opportunities to pursue postsecondary education in physical, life, and computer sciences, mathematics, and engineering.

(e) To encourage role models in scientific, mathematics, and engineering fields for young people.

(f) To strengthen the United States' mathematics, scientific, and engineering potential by encouraging equal participation of women with men in mathematics, scientific, and engineering fields.

(g) To attract talented students to teaching careers in mathematics and science in elementary and secondary schools.

(Authority: 20 U.S.C. 5381)

§ 652.2 Who is eligible to apply for a scholarship under this program?

An individual is eligible to apply for an initial scholarship under the NSSP if the individual—

(a) Is scheduled to graduate from a public or private secondary school or to obtain the recognized equivalent of a high school diploma, as defined in 34 CFR 600.2, during the award year prior to the award year in which the NSSP scholarship is to be awarded;

(b) (1) Is a citizen or national of the United States; or

(2) Provides evidence from the U.S. Immigration and Naturalization Service that he or she—

(i) Is a permanent resident of the United States; or

(ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(c) Has demonstrated outstanding academic achievement in secondary school in the physical, life, or computer sciences, mathematics, or engineering as determined by the State nominating committee established under § 652.20;

(d) Demonstrates to the State nominating committee that he or she intends to apply for enrollment at an institution of higher education as a full-time undergraduate student for the purpose of receiving a baccalaureate degree and has not accepted an appointment to a U. S. service academy, such as the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy, the U.S. Coast Guard Academy, and the U.S. Merchant Marine Academy; and

(e) Demonstrates to the State nominating committee that he or she intends to major, at an institution of higher education, in one of the physical, life, or computer sciences, mathematics, or engineering.

(Authority: 20 U.S.C. 5384)

§ 652.3 How are awards distributed?

(a) In each award year, the Secretary awards one initial scholarship to each of two eligible Scholars selected by the President under § 652.33 from each congressional district.

(b) The Secretary disburses the scholarship proceeds, on behalf of each Scholar selected by the President, to the institution of higher education at which each Scholar is enrolled.

(c) A student awarded a scholarship under this part may attend any institution of higher education, as defined in § 652.6, that enters into an agreement with the Secretary under § 652.50, for the purpose of obtaining a baccalaureate degree in the physical, life, or computer sciences, mathematics, or engineering.

(Authority: 20 U.S.C. 5382 and 5383)

§ 652.4 In what amounts are scholarships awarded?

(a) Except as provided in paragraphs (b) and (c) of this section, the amount of a scholarship awarded under this part for a full-time student for any academic year is $5,000.

(b) The Secretary reduces the scholarship amount awarded under this part by the amount that the scholarship would otherwise exceed the Scholar's cost of attendance, as defined in section 472 of the Higher Education Act of 1965, as amended.

(c) In the event that funds available in a fiscal year are insufficient to fund fully each award under this part, the Secretary reduces proportionately each scholarship and the amount paid to each Scholar.

(Authority: 20 U.S.C. 5385)

§ 652.5 What regulations apply to this program?

The following regulations apply to the National Science Scholars Program:

(a) The Education Department General Administrative Regulations (EDGAR), as follows, except as provided in paragraph (b) of this section:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs) except for the following:

(i) Subpart C (How to Apply for a Grant).

(ii) Sections 75.200 through 75.216, 75.218, and 75.220 through 75.261 of subpart D (How Grants Are Made).

(iii) Sections 75.580 through 75.592 of subpart E (What Conditions Must Be Met By a Grantee?).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 81 (General Education Provisions Act—Enforcement)

(6) 34 CFR part 82 (New Restrictions on Lobbying)

(7) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(8) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) For the purposes of the regulations in this part, the terms "grantee" and "recipient," as used in EDGAR, mean an

institution of higher education that administers a scholarship award on behalf of a National Science Scholar.

(c) The regulations in this part 652.

(Authority: 20 U.S.C. 5381 to 5386)

§ 652.6 What definitions apply to this program?

The following definitions apply to terms used in this part:

(a) *Definitions in the Act.* The following terms are defined in sections 603(b)(5) and 602(d) of the Act:

Congressional district.

National Science Scholar (Scholar).

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant.

Application.

Award.

Department.

Fiscal Year.

Private.

Secondary school.

Secretary.

State.

(c) *Other definitions that apply to this part.* The following additional definitions apply to this part:

Academic year means—

(1) A period of time in which a full-time student is expected to complete the equivalent of at least two semesters, two trimesters, or three quarters, at an institution that measures academic progress in credit hours and uses a semester, trimester, or quarter system; or

(2) A period of time in which a full-time student is expected to complete at least 24 semester hours or 36 quarter hours at an institution that measures academic progress in credit hours but does not use a semester, trimester, or quarter system.

Act means the Excellence in Mathematics, Science and Engineering Education Act of 1990.

Award year means the period of time from July 1 of one year through June 30 of the following year.

Computer sciences means the branch of knowledge or study of computers. The term encompasses, but is not limited to, such fields of knowlege or study as computer hardware, computer software, computer engineering, information systems, and robotics.

Director means the Director of the National Science Foundation.

Engineering means the science by which the properties of matter and the sources of energy in nature are made useful to humanity in structures, machines and products as in the construction of engines, bridges, buildings, mines, and chemical plants. The term encompasses, but is not limited to, such fields of knowledge or study as aeronautical engineering, chemical engineering, civil engineering, electrical engineering, industrial engineering, materials engineering, and mechanical engineering.

Full-time student means a student enrolled in an institution of higher education, other than a correspondence school, who is carrying a full-time academic workload as determined by the institution under standards applicable to all students enrolled in that student's educational program.

Institution of higher education (institution) means an institution of higher education as defined in 34 CFR 600.4 (institutional eligibility regulations).

Life sciences means the branch of knowledge or study of living things. The term encompasses, but is not limited to, such fields of knowledge or study as biology, biochemistry, biophysics, microbiology, genetics, physiology, botany, zoology, ecology, and behavioral biology. This term does not encompass social psychology or the health professions.

Mathematics means the branch of knowledge or study of numbers and the systematic treatment of magnitude, relationships between figures and forms, and relations between quantities expressed symbolically. The term encompasses, but is not limited to, such fields of knowledge or study as statistics, applied mathematics, and operations research.

Physical sciences means the branch of knowledge or study of the material universe. The term encompasses, but is not limited to, such fields of knowledge or study as astronomy, atmospheric sciences, chemistry, earth sciences, ocean sciences, and physics.

Scholarship means an award made to an individual in an award year under this part for one academic year.

Scholarship disciplines means the physical, life, and computer sciences, mathematics, and engineering.

(Authority: 20 U.S.C 5381 to 5386)

Subpart B—How Does A Student Apply for a Scholarship?

§ 652.10 How does a student apply for a scholarship?

(a) To apply for a scholarship under this part, an individual, who meets the eligibility requirements of § 652.2, must submit an application as required by the State nominating committee administering the NSSP in the State of his or her legal residence.

(b) In his or her application, the applicant shall address the selection criteria contained in § 652.32.

(c) The applicant shall submit the application to the State nominating committee within the deadline established by the committee.

(Approved by the Office of Management and Budget under control number 1840–0629)

(Authority: 20 U.S.C. 5383)

Subpart C—What Are the Administrative Responsibilities of a State?

§ 652.20 How does a State establish a nominating committee?

(a) To participate in the NSSP, a State shall establish a nominating committee for the purpose of nominating students for NSSP scholarships.

(b) The State nominating committee may be appointed either by the Chief State School Officer (CSSO) or by an existing grant agency or panel that was previously designated by the CSSO.

(c) Before the nominating committee may begin to fulfill its functions under § 652.21, the CSSO, grant agency, or panel that appoints the nominating committee shall submit for the Secretary's approval the names and qualifications of the individuals to be appointed.

(d) The nominating committee must include, but is not limited to, the following:

(1) At least one individual from each of the following fields:

(i) Education.

(ii) Science.

(iii) Mathematics.

(iv) Engineering.

(2) At least two faculty members each teaching in a different scholarship discipline at the postsecondary level.

(3) At least one teacher teaching in one or more of the scholarship disciplines at the secondary level.

(4) At least one person who is a scientist, mathematician, or engineer from a private-sector business that is oriented to the sciences, mathematics, or engineering.

(5) At least one admissions officer from an institution of higher eduation.

(e) An individual representing one of the nominating committee membership categories under paragraphs (d) (2) through (5) of this section, may, if qualified, also represent a category in paragraph (d)(1) of this section.

(f) Each State shall require that its State nominating committee members serve as volunteers without compensation.

(Approved by the Office of Management and Budget under control number 1840–0629)

(Authority: 20 U.S.C. 5383)

§ 652.21 What are the responsibilities of a State and its nominating committee?

Each State shall require its nominating committee to establish operating procedures governing the scholarship nomination process that include—

(a) The dissemination of program information and application materials to the State's public and private secondary schools and GED test centers;

(b) The promotion of participation in the NSSP by students from groups underrepresented in the scholarship disciplines, such as students from minority groups, students with disabilities, or students who are economically disadvantaged; and

(c) The establishment of written internal administrative procedures for—

(1) The timely submission, processing, and review of applications submitted by eligible students; and

(2) The resolution of conflicts of interest of members of the nominating committee.

(Authority: 20 U.S.C. 5383)

§ 652.22 What records must a State maintain?

The CSSO, State agency, or panel that appoints the nominating committee under § 652.20(b) shall maintain all student applications and the records and written procedures related to the selection of nominees for a scholarship competition for a period of 5 award years following the award year of the scholarship competition.

(Approved by the Office of Management and Budget under control number 1840–0629)

(Authority: 20 U.S.C. 5383 and 5384)

Subpart D—How Are Scholars Nominated and Selected?

§ 652.30 How are Scholars nominated?

(a) Scholars are nominated by State nominating committees that are established in accordance with § 652.20.

(b) Each State nominating committee shall review and evaluate the applications received each year under this program.

(c) Each State nominating committee shall select nominees in accordance with the program eligibility requirements for an initial award. Each State nominating committee may adopt one or more minimum standards to demonstrate outstanding academic achievement at the secondary school level that may include such standards as an overall minimum grade point average or a minimum class rank combined with a minimum grade point average in the sciences, mathematics, and engineering.

(d) Each State nominating committee shall submit to the President the nominations of at least four applicants legally residing in each congressional district in the State, at least half of whom must be female. The nominations must be—

(1) Ranked in order of evaluated score; and

(2) Submitted to the Secretary, who receives the nominations on behalf of the President, in the manner and by the date established by the Secretary in a notice published in the **Federal Register**.

(e) Each nominating committee shall provide the following information for each nominee to the Secretary:

(1) Name.

(2) Sex.

(3) Address.

(4) Telephone number.

(5) Social security number (if provided by the nominee).

(6) Congressional district and name of Representative or Delegate.

(7) Other information that the Secretary considers necessary for the proper administration of the program.

(Approved by the Office of Management and Budget under control number 1840–0629)

(Authority: 20 U.S.C. 5383)

§ 652.31 How shall a State nominating committee evaluate an application?

(a) Each State nominating committee shall evaluate an application on the basis of the selection criteria in § 652.32.

(b) The committee shall give each of the selection criteria equal weight.

(c) The State nominating committee shall score each applicant's responses to the selection criteria in § 652.32 using the following scale: 5 (truly exceptional), 4 (outstanding), 3 (excellent), 2 (good), 1 (fair), 0 (poor).

(d) Each applicant may receive a maximum of 25 points.

(Authority: 20 U.S.C. 5383)

§ 652.32 What selection criteria shall the State nominating committee use?

The State nominating committee shall use the following selection criteria to evaluate and rate applications:

(a) *Evidence of exceptional academic achievement at the secondary level.* The nominating committee shall rate the applicant's overall academic achievement at the secondary level by considering one or more of the following:

(1) High school class rank and grades.

(2) For an applicant who is earning the recognized equivalent of a high school diploma in lieu of graduating from high school, the applicant's score on the high school equivalency examination and high school record before leaving school.

(3)(i) The applicant's composite score on the ACT Assessment;

(ii) The sum of the applicant's verbal and quantitative scores on the Scholastic Aptitude Test (SAT); or

(iii) Both the composite score on the ACT Assessment and the sum of the applicant's SAT scores.

(b) *Evidence of exceptional nonacademic accomplishment in extracurricular areas and in the physical, life, or computer sciences, mathematics, or engineering.* The nominating committee shall rate the applicant's achievement in activities in areas such as community service, leadership, and artistic an athletic performance along with achievement outside the classroom in the sciences, mathematics, and engineering.

(c) *Letters of reference.* The nominating committee shall rate letters of reference written by three individuals chosen by the applicant and determine the degree to which these letters reflect the applicant's qualifications for a National Science Scholarship, based upon relevant factors such as—

(1) The author's qualifications to provide a recommendation for the particular applicant;

(2) The extent to which each letter of reference describes the applicant's motivation and potential to pursue a career in the physical, life, or computer sciences, mathematics, or engineering; or

(3) The extent to which each letter of reference describes the applicant's overall potential and abilities.

(d) *Applicant essay.* The applicant must write an essay that the nominating committee shall analyze and rate. The essay of 500 words or less must be on a topic that the applicant chooses and considers to be of interest to the nominating committee. The essay must reflect the applicant's motivation to pursue a career in the physical, life, or computer sciences, mathematics, or engineering, and otherwise be of relevance to the committee's determination of the applicant's qualification for a National Science Scholarship.

(e) *Meeting the purposes of the authorizing statute.* The nominating committee shall rate each application to determine how well it meets the purposes of the National Science Scholars Program as set forth in § 652.1.

(Approved by the Office of Management and Budget under control number 1840–0629)

(Authority: 20 U.S.C. 5381–5383)

§ 652.33 How are Scholars selected?

(a) For each award year, after consultation with the Secretary and the Director of the National Science Foundation, the President selects and

announces from among the nominees submitted by State nominating committees under § 652.30, two National Science Scholars legally residing in each congressional district.

(b) The selection of National Science Scholars is announced prior to January 1 of each fiscal year for which funds are appropriated.

(Authority: 20 U.S.C. 5383)

Subpart E—What Conditions Must Be Met By Scholars?

§ 652.40 What requirements must a Scholar meet in order to receive a scholarship?

To be eligible to receive a scholarship, a Scholar who has been selected by the President under § 652.33, must—

(a) Meet the eligibility requirements in § 652.2;

(b) Have been accepted for enrollment at an institution of higher education other than a U.S. service academy, such as the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy, the U.S. Coast Guard Academy, and the U.S. Merchant Marine Academy, as a full-time undergraduate student (as determined by the institution) for the purpose of obtaining a baccalaureate degree;

(c) Have declared a major in one of the physical, life, or computer sciences, mathematics, or engineering, or have provided a written statement to the institution of higher education of his or her intent to major in one of these fields of study if it is the policy of the institution at which the Scholar has been accepted for enrollment that students not declare a major until a later point in their course of study; and

(d) Have filed with the institution he or she plans to attend or is attending, a Statement of Educational Purpose in accordance with 34 CFR 668.32 of the Student Assistance General Provisions regulations.

(Approved by the Office of Management and Budget under control number 1840–0629)

(Authority: 20 U.S.C. 5381 and 5383)

§ 652.41 What is the duration of a scholarship?

(a) In the first award year after a Scholar is selected by the President, the Scholar receives his or her initial scholarship, for a period of one academic year, for his or her first year of undergraduate study in one of the scholarship disciplines at an institution of higher education.

(b) Except for a Scholar covered in paragraph (c) of this section, a Scholar who satisfies the requirements of § 652.42 may receive up to three additional scholarships in subsequent award years, each awarded for a period of one academic year, in order to complete his or her undergraduate course of study.

(c) A Scholar who satisfies the requirements of § 652.42 and who is enrolled in an undergraduate course of study that requires attendance for five academic years may receive additional scholarships for not more than four additional academic years of undergraduate study.

(Authority: 20 U.S.C. 5382)

§ 652.42 What are the requirements for a Scholar to continue to receive scholarship payments under the NSSP?

A Scholar who has received a scholarship under this part for at least one year of undergraduate study is eligible to receive a scholarship for a subsequent year of undergraduate study under § 652.41(b) or (c), if, at the beginning of that subsequent academic year, the Scholar—

(a) Is enrolled as a full-time student at an institution of higher education for the purpose of receiving a baccalaureate degree, unless the institution has determined that unusual circumstances justify waiver of the full-time attendance requirement and the Secretary has waived the full-time attendance requirement as provided for in § 652.43(b);

(b) Continues to major in one of the scholarship disciplines, or provides a written assurance to both the State and the institution of higher education at which the Scholar is enrolled of his or her intent to major in one of the scholarship disciplines, if it is the policy of that institution that a student not declare a major until later in his or her course of study; and

(c) Maintains a high level of academic achievement, as defined by the institution, in—

(1) His or her overall course of study;

(2) Those science, mathematics, or engineering courses in which the Scholar has enrolled; and

(3) The Scholar's major, if declared.

(Approved by the Office of Management and Budget under control number 1840–0629)

(Authority: 20 U.S.C. 5382 and 5384)

§ 652.43 What are the consequences of a Scholar's noncompliance with the scholarship eligibility requirements in §§ 652.40 or 652.42?

(a)(1) Except as provided in paragraph (b) of this section, if an insitution of higher education finds that a Scholar fails to meet the requirements of §§ 652.40 or 652.42 within an award year, the institution shall suspend the Scholar's eligibility to receive further scholarships, or scholarship proceeds.

(2) A suspension of a Scholar's eligibility for failure to meet the requirements of §§ 652.40 or 652.42 must remain in effect until the Scholar is able to demonstrate to the satisfaction of the institution that he or she is in compliance with all applicable scholarship eligibility requirements, including renewal requirements in § 652.42 and reinstatement requirements in § 652.44.

(3) If the total period of suspension exceeds 12 months, the Scholar's eligibility for NSSP scholarships shall be terminated.

(b) The Secretaary may waive the full-time attendance requirement in § 652.40 and § 652.42 for periods during which the institution determines that unusual circumstances have caused the Scholar's noncompliance with the full-time attendance requirement of § 652.42(a) and that suspension of scholarship eligibility would cause a Scholar undue hardship.

(c) If a Scholar's full-time attendance requirement is waived under paragraph (b) of this section, he or she may continue to receive a scholarship payment. The institution shall prorate the payment according to the Scholar's enrollment status for the academic period during which he or she continues to be enrolled on a part-time basis but remains otherwise eligible for the award. For example, if a Scholar for whom the full-time enrollment requirement is waived by the Secretary is enrolled as a half-time student for one semester, he or she is eligible to receive one-half of the scholarship payment for a full-time student for that semester. Therefore, if the institution makes disbursements in equal amounts, the Scholar would receive one-quarter of his or her scholarship during that semester, which would count as one-fourth of a year for purposes of the four-year limit.

(Authority: 20 U.S.C. 5384)

§ 652.44 Under what conditions may scholarship eligibility be reinstated?

A Scholar whose eligibility is suspended under § 652.43(a), such as a Scholar whose attendance at an institution of higher education was interrupted for reasons including, but not limited to, pregnancy, child-rearing, or other family responsibilities, may have his or her scholarship eligibility reinstated by the institution of higher education at which he or she is enrolled if—

(a) The period of suspension or interruption was for a period of no more than 12 months unless the institution determines that the 12-month limitation

should be waived due to exceptional circumstances; and

(b) The Scholar demonstrates to the institution that he or she is in compliance with the relevant eligibility and renewal requirements in §§ 652.40 and 652.42.

(Authority: 20 U.S.C. 5384)

Subpart F—What Are the Administrative Responsibilities of the Institutions of Higher Education at Which NSSP Scholars Are Enrolled?

§ 652.50 What institutional agreement is required?

Any institution at which one or more NSSP Scholars are enrolled shall enter into an agreement with the Secretary under which the institution shall agree to comply with the provisions of the Act and of this part, including providing annual assurances of the eligibility of enrolled Scholars under §§ 652.40 and 652.42 and the awarding of scholarships to those Scholars.

(Authority: 20 U.S.C. 5383 and 5384)

§ 652.51 How are scholarships to be administered by institutions of higher education?

(a) The Secretary sends a roster of Scholars and a notification of an allocation of scholarship funds for each award year to an institution of higher education that has entered into an agreement with the Secretary under § 652.50.

(b) An institution of higher education may not disburse scholarship funds to a Scholar until the Scholar is attending classes at that institution of higher education and meets the other eligibility requirements in § 652.40 and, if applicable, the renewal requirements of § 652.42.

(c) The institution shall award the Scholar a scholarship for an amount that is determined under § 652.4.

(d) The institution of higher education in which a Scholar is enrolled for the purpose of obtaining a degree may allow another institution or organization to provide a portion of the Scholar's program of study if the institution at which the Scholar is enrolled to obtain his or her degree—

(1) Enters into a written agreement with the other institution or organization which is in accordance with the provisions of 34 CFR 600.9 and which, if the other institution has entered into an agreement with the Secretary under § 652.50, is in accordance with the provisions governing written agreeements between two eligible institutions in 34 CFR 690.9 of the Pell Grant Program regulations; and

(2) Ensures that the Scholar continues to meet the requirements in subpart E of this part.

(Authority: 20 U.S.C. 5383–5385)

§ 652.52 How are scholarship awards to be made and scholarship proceeds returned and transferred?

(a) An institution shall provide scholarship proceeds to a Scholar in at least two payments per academic year.

(b) In the event that a Scholar refuses a scholarship, does not attend courses, transfers to another institution, or becomes ineligible for a scholarship and cannot be reinstated in the same award year, the institution shall return the scholarship proceeds to the Secretary.

(c) A Scholar who ceases to be eligible for NSSP scholarship proceeds at an institution before completion of an academic period for which payment of a scholarship award has been received is only eligible for a prorated portion of the scholarship award and is liable to the Secretary for any overpayment. The prorated portion of the scholarship to be returned to the Secretary must be in proportion to the portion of the academic period during which the Scholar was ineligible for a scholarship. The institution shall return the overpayment to the Secretary in accordance with the provisions governing the recovery of overpayments in 34 CFR 690.79 of the Pell Grant Program regulations.

(d) The institution shall pay a *pro rata* share of the scholarship for which the Scholar is eligible if he or she enrolls for less than a full academic year to complete his or her baccalaureate degree. The institution shall return the remaining share of the scholarship to the Secretary.

(e) If a Scholar transfers to another institution of higher education during an award year, the institution in which the Scholar was originally enrolled shall calculate, and immediately inform the Secretary of, the amount of the scholarship disbursed to the Scholar at that institution and the amount of the award that remains to be disbursed for the award year. The Secretary will then reallocate the undisbursed funds from the original institution to the institution to which the Scholar has transferred. As long as the new institution to which the Scholar transfers determines that the Scholar meets the provisions of §§ 652.40 and 652.42, it may continue to provide scholarship funds to the Scholar.

(Authority: 20 U.S.C. 5383 and 5384)

§ 652.53 What reports are required from an institution?

(a) Prior to the receipt of funds for disbursement to a Scholar, an institution of higher education shall provide to the Secretary the following:

(1) For a Scholar receiving his or her initial scholarship, a statement from the appropriate official at the institution indicating—

(i)(A) That the Scholar has provided the institution with a written formal commitment to attend the institution for the relevant academic year and has complied with any other institutional requirements for indicating such a commitment including a monetary deposit; or

(B) That the Scholar is currently in attendance at that institution for the relevant academic year; and

(ii) The Scholar's cost of attendance.

(2) For a Scholar who is eligible to receive an additional award in a subsequent award year, a statement from the appropriate official at the institution indicating that the Scholar is in compliance with the renewal requirements of § 652.42.

(b) An institution shall provide such reports to the Secretary as are necessary to carry out the Secretary's functions under this part, in accordance with departmental requirements in EDGAR.

(Authority: 20 U.S.C. 5384)

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DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Science Scholars Program

AGENCY: Department of Education.

ACTION: Notice of the closing date for the submission of fiscal year 1992 Scholar nominations under the National Science Scholars Program.

SUMMARY: The Secretary of Education (Secretary) gives notice of the closing date and procedures for the State nominating committees approved by the Secretary to submit the names of nominees to the President under the National Science Scholars Program (NSSP) authorized by title VI, part A of the Excellence in Mathematics, Science and Engineering Education Act of 1990, Public Law 101–589, 20 U.S.C. 5381 *et seq.* (the Act), as amended. The NSSP supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by providing scholarships and other benefits to students selected by the President for undergraduate study of the physical, life, or computer sciences, mathematics, or engineering. National Education Goals 3 and 4 call for American students to demonstrate competency in mathematics and science and to be first in the world in those subjects by the year 2000.

The Secretary will accept the names of nominees on behalf of the President from the nominating committees of States participating in the NSSP, including the 50 States and the District of Columbia, Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands. Each State nominating committee must submit for consideration the names and pertinent information of at least four nominees from each congressional district in the State. The Act provides that at least one half of the nominees from each congressional district must be female and all of the nominees must be ranked in order of priority within each congressional district. A State with an approved nominating committee that desires to have its nominees considered for selection as National Science Scholars must provide each nominee's name, permanent address, home telephone number, summer telephone number if different from the home telephone number, social security number if provided by the nominee, sex, congressional district, the congressional representative's or delegate's name for that congressional district, priority ranking within the congressional district, institution of higher education at which the nominee has been accepted or which the nominee plans to attend, and the NSSP subject area in which the nominee intends to major and specific major if known.

CLOSING DATE AND MEDIA FOR TRANSMITTING NSSP NOMINEE INFORMATION: A State must provide its NSSP nominations for fiscal year 1992 by—

(1) Submitting the nominee information in typewritten format; or

(2) Submitting the nominee data on a data diskette provided by the U.S. Department of Education that the U.S. Department of Education sends directly to all States.

To ensure that State nominees are considered for FY 1992 funds, a State must submit nominee information by July 13, 1992.

STATE NSSP NOMINATIONS DELIVERED BY MAIL: NSSP nominations must be sent to the address provided below.

A State must obtain proof or mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice, or receipt from a Commercial Carrier; or

(4) Any other proof of mailing acceptable to the Secretary of Education.

If a State's NSSP nominations are sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. A State should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a State should check with its local post office. A State is encouraged to use registered or at least first-class mail.

Each State submitting nominations after the closing date will be notified that its nominees cannot be assured of consideration for fiscal year 1992 funding.

ADDRESSES: Nominations that are mailed must be sent to the following address: National Science Scholars Program, United States Department of Education, Office of Student Financial Assistance, ROB–3, room 4651, 400 Maryland Avenue, SW., Washington, DC 20202–5453.

APPLICATIONS DELIVERED BY HAND: State NSSP nominations that are typewritten or are on diskette that are hand-delivered must be taken to the U.S. Department of Education, Office of Student Financial Assistance, 7th and D Streets, SW., room 4651, GSA Regional Office Building #3, Washington, DC 20202–5453. Hand-delivered nominations will be accepted between 8 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays.

State nominations that are hand-delivered will not be accepted after 4:30 p.m. on the closing date.

PROGRAM INFORMATION: Under the NSSP, the Secretary is authorized to award scholarships to outstanding students selected by the President for the study of physical, life, or computer sciences, mathematics, or engineering. The Secretary is authorized to award initial scholarships of up to $5,000 for the first year of undergraduate study to graduating high school students as well as continuation awards of up to $5,000 for up to four additional years of undergraduate study. Based on an appropriation of $4.5 million for fiscal year 1992 and on the assumption that all States participate in the NSSP for fiscal year 1992, the estimated award for recipients in fiscal year 1992 is expected to be approximately $2,600.

APPLICABLE STATUTORY AND REGULATORY PROVISIONS: The following statute and regulations are applicable to the fiscal year 1992 NSSP:

(1) The program statute, 20 U.S.C. 5381 *et seq.*

(2) National Science Scholars Program regulations, 34 CFR part 652, as published in this issue of the **Federal Register**.

(3) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (with the exception of subpart C, §§ 75.200–75.216, 75.218, and 75.220–75.261 of subpart D, and sections 75.580–75.592 of subpart E), 77, 79, 81, 82, 85, and 86.

INTERGOVERNMENTAL REVIEW: This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

FOR FURTHER INFORMATION CONTACT: For further information contact Mr. Fred H. Sellers, Chief, State Grant Section, Office of Student Financial Assistance, U.S. Department of Education,

Washington, DC 20202–5447; telephone (202) 708–4607. Deaf and hearing impaired individuals may call: the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC, 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

(Authority: 20 U.S.C. 5381 *et seq.*, as amended.)

(Catalog of Federal Domestic Assistance Number 84.242, National Science Scholars Program)

Dated: March 13, 1992.

Gerald R. Riso,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 92–7124 Filed 3–26–92; 8:45 am]

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Vol. 57, No. 60

Friday, March 27, 1992

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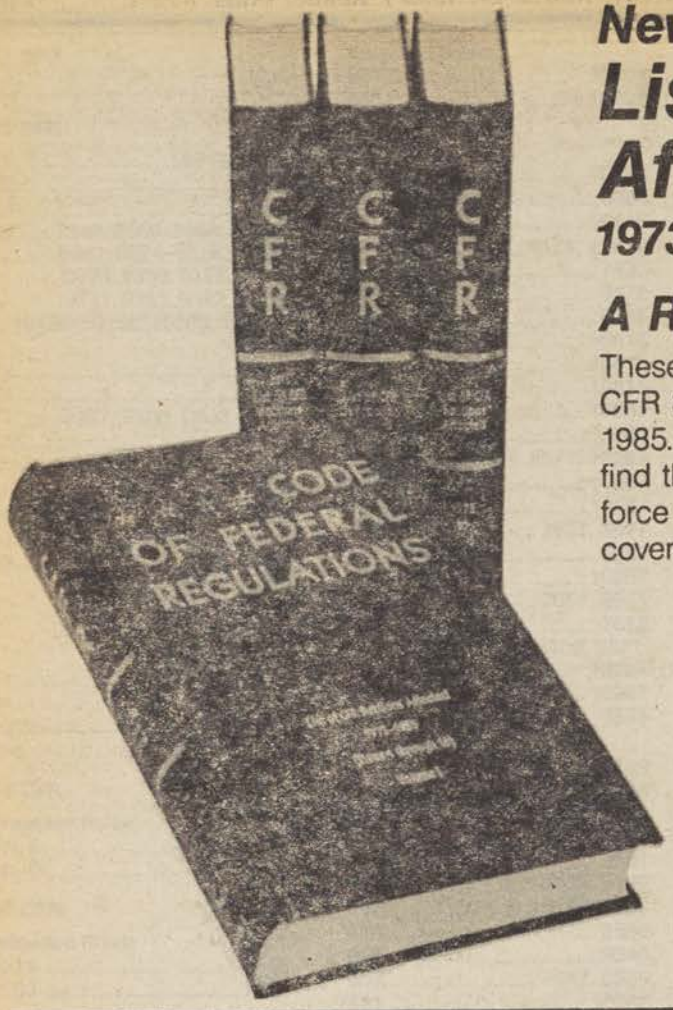

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102d Congress, 2nd Session, 1992

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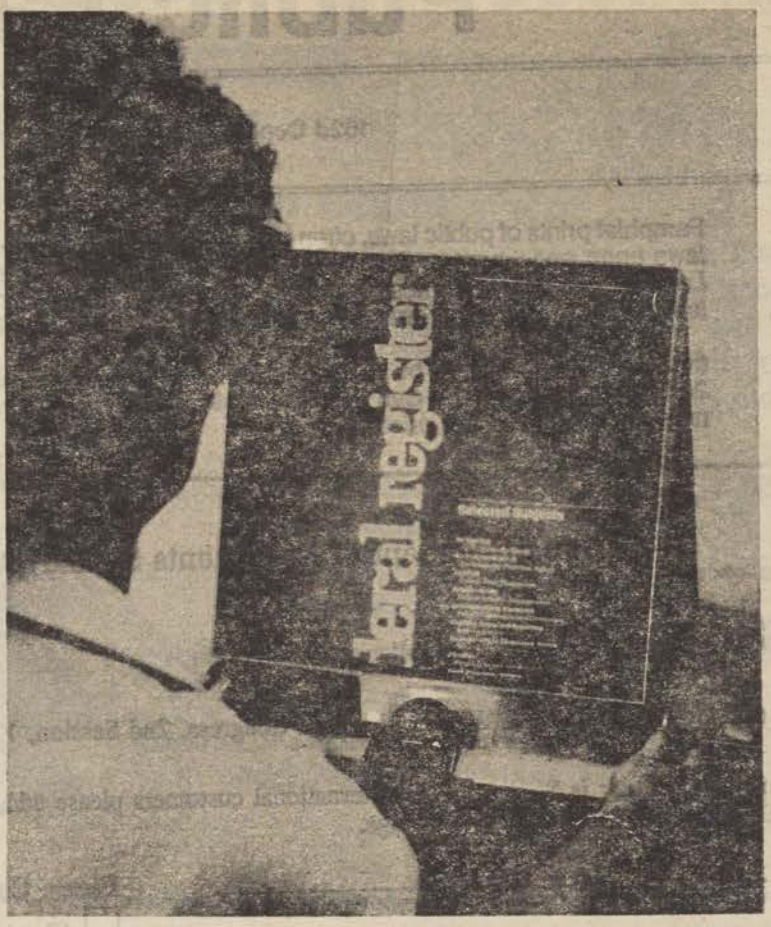

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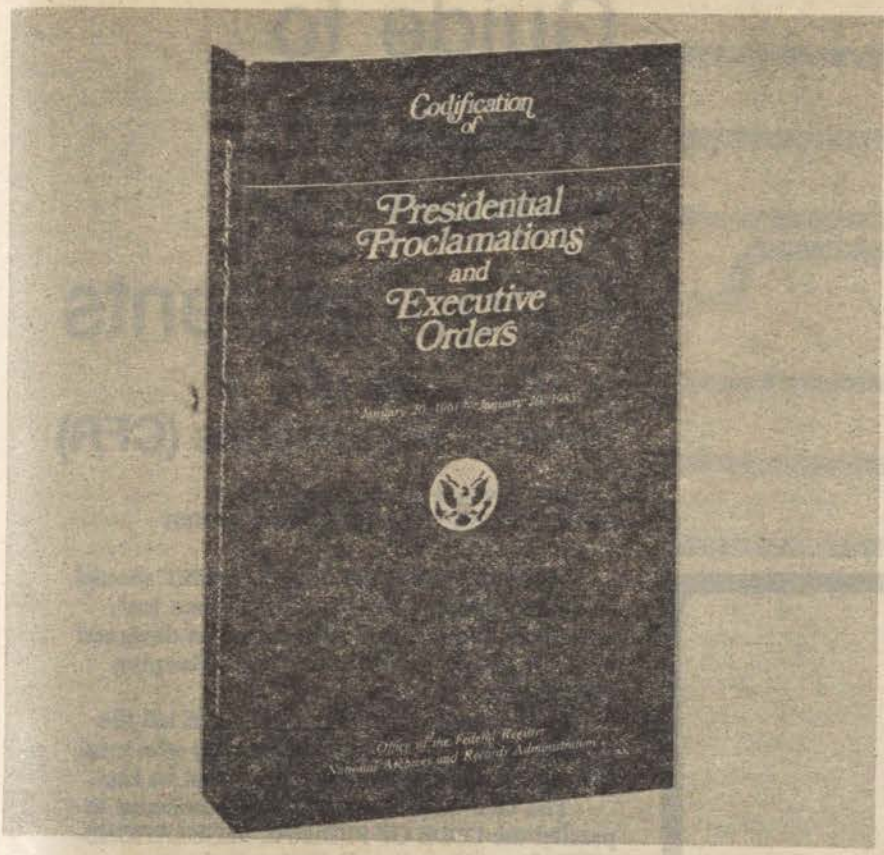

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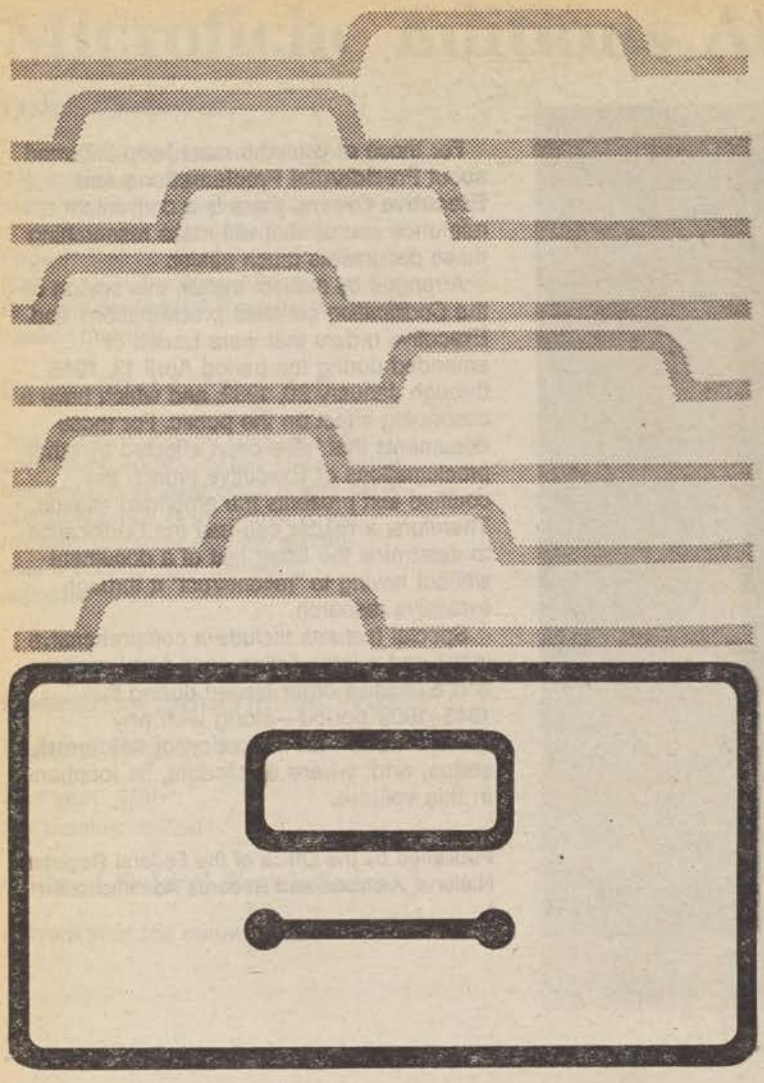

Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1991

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